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## Dominions

## No. 1.

Confidential.

The Self-Governing Dominions and  
Coloured Immigration.

## STATISTICS.

The following are the statistics according to the latest census returns of East Indians, Chinese and Japanese in the self-governing dominions; but much has happened in some cases since the date when they were collected :—

Dominions.	Census Year.	East Indians.	Chinese.	Japanese.
Canada ... ..	1901	1,076	668 (S) 16,375 (A)	(S) 1,062 (A) 3,612
Newfoundland*	1901	Returns not detailed enough to show.		
Cape of Good Hope...	1904	8,489 100,727 316 half-castes	1,380	38
Natal (a) ... ..	1904	31,004 indentured 9,986	171	3
Transvaal (including Swaziland). Orange River Colony	1904	"Number of Asiatics in Colony = 253." (d)		
New Zealand ...	1901	24	2,836 2,570 (1906)	17
Australia :—				
New South Wales	1901	1,592	10,219 1,944 half-castes	161
Victoria ... ..	1901	780	8,160	55
Queensland ... ..	1901	939	9,313	2,269
South Australia ...	1901	439 (b)	3,359 96 half-castes	205
Western Australia	1901	748 (c)	1,521 48 half-castes	(c) 867
Tasmania .. ...	1901	361 (d)	506 108 half-castes	(c) 1

(S) Naturalised.

(A) Alien.

\* Total born in British Colonies, 2,102 } foreign countries, 816† } †Returns incomplete.

(a) Natal.—The figures for "Indentured Indians" are those given in "Report of Protector of Indian Immigrants for year ended December, 1904." They are not in addition to, but part of, the census figures.

(b) "Indians and Cingalese."

(c) These figures are "birthplace figures," and consequently may include people of other nationalities born in countries mentioned, but, of course, do not include Indians or Chinese born in Western Australia or Tasmania.

(d) The census returns do not give anything more detailed than this general statement.

NOTE.—This memorandum, in which I have had very great help from Mr. Keith, is to be kept up to date and periodically revised so that we may always have the facts of the question to hand.—[C.P.L.]



## DISTANCES.

The three countries from which Oriental immigration into the self-governing British Dominions has taken place are India, China and Japan.

The comparative distance of these countries from Canada, Australia, New Zealand, and South Africa is roughly as follows :—

## INDIA.

<i>Canada to India.</i>	Miles.
(Halifax to Bombay, via Gibraltar and Suez Canal) ... ..	7,510
<i>Australia to India.</i>	
Albany to Madras ... ..	3,970
<i>New Zealand to India.</i>	
Wellington to Madras ... ..	6,730
<i>South Africa to India.</i>	
Durban to Bombay... ..	3,800

## CHINA.

<i>Canada to China.</i>	
Vancouver to Shanghai ... ..	5,620
<i>Australia to China.</i>	
<i>S. Australia.</i>	
Port Darwin to Hong Kong ... ..	2,320
<i>W. Australia.</i>	
Fremantle to Hong Kong (via Port Darwin) ... ..	4,120
<i>Queensland.</i>	
Brisbane to Hong Kong ... ..	3,890
<i>New South Wales.</i>	
Sydney to Hong Kong ... ..	4,400
<i>Victoria.</i>	
Melbourne to Hong Kong ... ..	5,050
<i>New Zealand to China.</i>	
Auckland to Hong Kong (via Fiji) ... ..	5,530
<i>South Africa to China.</i>	
Cape to Hong Kong ... ..	7,140

## JAPAN.

<i>Canada to Japan.</i>	
Vancouver to Yokohama ... ..	4,600
<i>Australia to Japan.</i>	
<i>South Australia.</i>	
Port Darwin to Yokohama (via Hong Kong) ... ..	3,860
<i>Western Australia.</i>	
Fremantle to Yokohama (via Port Darwin to Hong Kong) ... ..	5,680

<i>Australia to Japan.</i>	Miles.
<i>Queensland.</i>	
Brisbane to Yokohama ... ..	3,920
<i>New South Wales.</i>	
Sydney to Yokohama ... ..	4,420
<i>Victoria.</i>	
Melbourne to Yokohama ... ..	5,070
<i>New Zealand to Japan.</i>	
Auckland to Yokohama ... ..	4,970
<i>South Africa to Japan.</i>	
Cape to Yokohama ... ..	8,480

## GENERAL FEATURES OF THE QUESTION.

The attitude of Canada on this question has necessarily been largely influenced by that of the United States. New Zealand, which has had little immediate concern in it, owing to distance from the source of supply, has as a rule followed the lead of Australia. In Australia the question has until recently been mainly associated with Chinese. In South Africa, until the recent importation of Chinese into the Rand under special restrictions, the East Indians have been the main factor; and the antagonism to them is rather as petty traders and storekeepers than as labourers and artisans. In Newfoundland the question has no practical importance. Japanese immigration may be taken to be on the whole the latest stratum of Eastern immigration—mainly in Canada and Queensland.

I do not trace any close connection between restriction of immigration generally and restriction of coloured immigration, although the so-called "Natal" acts are worded in general terms. In 1886, when the Emigrants Information Office was opened, and for some years afterwards, feeling in Australia was very suspicious of emigration from the United Kingdom. At the same time there was a great outburst of anti-Chinese feeling in Australia. But at the present day while the anti-Asiatic feeling in Australia is at least as strong as it was, if not stronger, there is a tendency to encourage immigration from this country. The truth seems to be that so far as fear of competition in the labour market is a motive, the feeling against Asiatics is part and parcel of a general suspicion of incoming labour. So far as it is a question of antagonism of race and colour, the white immigrant is sometimes welcomed as a counterpoise to the Asiatic.



# THE BEGINNINGS OF THE CHINESE QUESTION IN AUSTRALIA.

A Blue Book of 1888 [C. 5448], gives a return of Acts passed up to that date by the Legislatures of the Australasian Colonies, of Canada, and of British Columbia, on the subject of Chinese immigration.\*

Restrictive legislation in Australia seems to have begun with the opening of the Ballarat Gold Field, which brought in a number of Chinese.

"The object of this legislation" wrote the Prime Minister of Victoria in 1888 "was, of course, the restriction of Chinese immigration. This was rendered necessary by the broad stream of that population which in 1853 commenced to set in towards these shores." In 1854 there were 2,000 Chinese in Victoria, at the end of 1859 there were on an estimate, about 42,000. Then a poll tax was imposed, and in 1863 the number had decreased to 20,000. The first Acts on the subject in Australia were passed in Victoria in 1855, in South Australia in 1857, and in New South Wales in 1861.

Before the eighties Victoria had passed seven Acts, the latest up to that date being the Chinese Immigrants Statute of 1865; South Australia one, viz., the Act of 1857 which was repealed in 1861; New South Wales one, viz., the Act of 1861, which was repealed in 1867. Queensland in 1877 passed "The Chinese immigrants Regulation Act of 1877"; and in the same year passed an Act "to amend the Gold Fields Act 1874 so far as relates to Asiatic and African aliens and in other respects." This latter Act, practically identical with a Bill of 1876 which had not received the Royal assent, made Asiatic and African aliens pay £3 for a miner's right and £10 per annum for a business license as against 10s. and £4 paid by ordinary miners and business men. In the following year, 1878, this Act was repealed and replaced by "An Act to further amend the Gold Fields Act 1874 so far as relates to new Gold Fields," by which Asiatic or African aliens were debarred from mining on gold fields until three years after their first proclamation as gold fields, unless they had been discovered by an Asiatic or African alien. The Queensland legislation was due to "the very large and, as it was thought by the Legislature, dangerous influx of Chinese, attracted by the then recently discovered Palmer Gold Field."

\* For early Chinese immigration into the West Indies, see the Colonisation Circular issued by the Colonial Land and Emigration Board No. 3 of October, 1843. It gives the regulations then issued as well as some correspondence on the subject.

See also the Colonisation Circular for 1877. Appendix No. 28 shows that between 1853 and 1875, 16,505 Chinese labourers were landed in the West Indies, mainly in British Guiana.

No laws of the kind were passed prior to the eighties in Western Australia, Tasmania, or New Zealand.

The legislation which has been mentioned was due to a specific cause, discovery of gold in Victoria and Queensland; it was prior to any legislation of the kind in Canada or South Africa, the first British Columbian Act on the subject being passed in 1878. In most of these early immigration laws no exception was made in favour of Chinese who were British subjects.\* All the laws except the Queensland Act included natives "of any islands in the Chinese seas," i.e., Japanese as well as Chinese; and the legislation usually took the form (the Victorian Act of 1865 was an exception) of providing that ships should only carry one Chinaman for every 10 tons and that £10 should be paid by or for every Chinaman on arrival in the colony.

## THE CHINESE QUESTION IN THE AUSTRALASIAN COLONIES, 1881-1887.

C. 5448, p. 25.

In 1881 the Australian colonies "again took alarm from the action of Western Australia, where measures were being taken to import Chinese labourers. This was felt to be, as it were, opening the door of the whole continent, and it was deemed necessary to at once reimpose the poll tax and other restrictions."

C. 5448, p. 25.

C. 5448, p. 37.

It will be remembered that in these years, until 1890, Western Australia had not responsible government. That colony in 1882 passed an Act—the Imported Labour Registry Act—which was considered in Australia to be "calculated to encourage the importation of Chinese and African labourers for the development of the pearl fisheries and other industries there." Meanwhile, in 1881, Victoria, New South Wales, South Australia, had all passed new Acts dealing with Chinese immigration, and New Zealand passed an Act on the subject for the first time. The South Australian Act excluded from its provisions the Northern Territory, which was thus left open to Chinese immigration. It also differed from the Victoria, New South Wales, and New Zealand Acts in not being applicable to Chinese who were British subjects.

The Acts were on the same lines as before, i.e., prescribing a poll tax of £10 on arrival and a certain proportion of Chinese to the tonnage; in New Zealand and in South Australia the maximum being one to every 10 tons; in Victoria and New South Wales one to every 100 tons.

\* The Victorian Act 41 of 1857 exempted natural born or naturalised subjects of the Queen; and the Queensland Act of 1877 defined Chinese as "any native of the Chinese empire or its dependencies not born of British parents," which apparently would not include, e.g., Chinese born in Hong Kong, or the Straits Settlements. All the other laws included Chinese who were British subjects as well as others.



The operation of the Victorian Immigration Acts of 1865 and 1881 came under the cognisance of the Judicial Committee of the Privy Council in November, 1891, in the case of *Musgrave v. Chun Teong Toy*, the latter being a Chinaman who was not a British subject. It was held that the Collector of Customs of Victoria was under no legal obligation to accept payment of the £10 poll tax required by Section 3 of the 1881 Act, inasmuch as the Act was infringed by the vessel which brought the Chinaman, bringing a number of Chinese passengers in excess of one to every 100 tons. It was also held that, apart from the Acts, an alien has not a legal right, enforceable by action, to enter British territory. (Law Reports Appeals, 1891, p. 272.)

In 1884 a further imported labour registry Act was passed by Western Australia, regulating the importation under contract, as labourers or servants, or for other purposes, of persons being apparently natives of India, China, Africa, or of the islands of the Indian or Pacific oceans, or of the Malayan Archipelago. In 1886 the colony passed its first Act to restrict Chinese immigration on parallel lines to the Acts of the other colonies—the maximum number of Chinese to be imported being one to every 50 tons, and a £10 poll tax being levied on arrival. This Act, however, did not apply to contract labourers coming under the 1884 Act, and as late as May, 1888, the Colonial Secretary of Western Australia wrote to the Premier of Victoria that “Neither the Government nor legislature of Western Australia has yet desired to prevent the introduction of Chinese under previous written engagement to work for employers.”

On the other hand, by the Western Australia Goldfields Act of 1886 Asiatic or African aliens were prohibited from holding miners’ rights, &c., upon a gold field for five years from the proclamation of the gold field. This Act was specially directed against Chinese.

In 1884 Queensland passed a further Act, raising the proportion of one Chinese to every 10 tons under the 1877 Act, to one to every 50 tons, and the poll tax on arrival from £10 to £30.

In 1887 Tasmania passed its first anti-Chinese Act, the provisions being one Chinese to every 100 tons, and a £10 poll tax on arrival.

Special mention was made of Chinese in a Victoria Factories Act of 1887.

#### THE BEGINNINGS OF THE CHINESE QUESTION IN BRITISH COLUMBIA.

“The advent of Chinese in large numbers into British Columbia dates back to the early sixties, and the discovery of the rich placer fields of Cariboo and Cassiar. Later, when this

The case of  
*Musgrave v.*  
*Chun Teong Toy.*

C.O. print,  
Australian,  
No. 129, p. 77.

C.O. print,  
Australian  
No. 130, pp. 48,  
49.

industry waned, numbers of the Chinese left the country, but some remained. During the construction of the Canadian Pacific Railway, however, large numbers again came in, so that, as the great industries began to develop, there was always a supply of cheap labour available—first the Indians, then the Chinese, and lately the Japanese. The Indians in the saw-mills were gradually displaced by the Chinese, who in turn are now being superseded by the Japanese.”\*

The first Canadian Act in restriction of Chinese was, as already stated, the British Columbia “Chinese Tax Act” of 1878, by which the Chinese, in lieu of taxes paid by other members of the community, were made to take out quarterly licences for which they had to pay 10 dollars; Chinese who neglected or refused to pay the 10 dollars were made liable to compulsory labour on the public roads or works in lieu of the tax. This Act was ultimately held to be *ultra vires* by the Canadian courts. In 1884 three anti-Chinese Acts were passed by the British Columbia legislature, one to prevent “Chinese from acquiring Crown lands,” a second “to prevent the immigration of Chinese,” a third—with a most offensive preamble—“to regulate the Chinese population of British Columbia.”† The second of these three Acts, but not the first and third, included under “Chinese” natives of any “islands in the Chinese seas” not born of British parents. The third Act was not to come into operation for a year.

The second of these three Acts was disallowed by Lord Lansdowne, then Governor-General of Canada, on the advice of his Ministers, the grounds being that “a law which prevents the people of any country from coming into a province cannot be said to be of a local or private nature. On the contrary, it is one involving Dominion and possibly Imperial interests.” It was doubtful therefore whether the British Columbia Legislature had power to pass such an Act, and in any case, in view of its character and importance and of the fact that it would come immediately into operation, the Dominion Minister of Justice advised its disallowance; it was accordingly disallowed.

\* Report of the Canadian Royal Commission on Chinese and Japanese immigration, 1902, page 272.

† The Preamble ran:—“Whereas the incoming of Chinese to British Columbia largely exceeds that of any other class of immigrant, and the population so introduced are fast becoming superior in numbers to our own race; are not disposed to be governed by our laws; are dissimilar in habits and occupation from our people; evade the payment of taxes justly due to the Government; are governed by pestilential habits; are useless in instances of emergency; habitually desecrate graveyards by the removal of bodies therefrom, and generally the laws governing the whites are found to be inapplicable to Chinese; and such Chinese are inclined to habits subversive of the comfort and well-being of the community.”

C.O. Paper  
7214/84, Emigra-  
tion, Canada.



The answer given to Lord Lansdowne's despatch on the subject by the late Lord Derby, who was then Secretary of State for the Colonies, and which was dated 31st May, 1884, stated that "Her Majesty's Government have not held that the relations of this country with China require them to interfere with the Australian legislation on international grounds, and it has been treated as a matter of internal administration with which a responsible colonial government is competent to deal. When, therefore, the Dominion Ministers advise your Lordship with regard to these Acts, you may understand that the question is not held to involve Imperial interests, and that you should deal with it as a Canadian question only." Lord Derby added that he was not prepared to express an opinion as to whether Chinese immigration was placed by the British North America Act of 1867 under the control of the Dominion or of the Provincial legislature.

Meanwhile the Dominion Government accepted a motion in Parliament that a law should be passed restricting the immigration of Chinese into British Columbia, and Sir John Macdonald promised a Commission to enquire into the subject. Two Commissioners reported early in 1885, and in the summer of that year the Dominion Parliament passed "An Act to restrict and regulate Chinese immigration into Canada," on the lines of the Australian Acts, a poll tax of 50 dollars per head being levied on arrival, and the maximum number to be carried in a vessel being fixed at one for every 50 tons. In this Act "Chinese immigrant" was defined as "any person of Chinese origin entering Canada" with certain specified exceptions—*e.g.*, diplomatists, tourists, and merchants—merchants being carefully defined.

The Act was slightly amended in 1888. British Columbia had in the meantime passed two new Acts in 1885, one a small Act to amend the Chinese Regulation Act, 1884; the other, which was disallowed, re-enacting with a few verbal alterations the Act of the previous year "to prevent the immigration of Chinese," which had also been disallowed.

Though Chinese first began to come into British Columbia, as into Australia, for mining purposes, the influx, which gave rise to legislation, was not due to mines, as in the case of the Australian Colonies, but to public works, and especially to work on the Canadian Pacific Railway. In the despatch referred to above Lord Lansdowne wrote: "It is beyond question that, but for the presence of Chinamen in British Columbia, the greater part of her public works could not have been carried out. I have been assured that it costs 125 dollars to transport a labourer to that province from Old Canada, a fact which seems to supply an answer to the argument that it is their objection to

association with the Chinese which has kept the Canadian workmen from immigrating into British Columbia." The report of the Canadian Commission of 1885 was to much the same effect. At the outset Chinese were beyond all question most valuable to British Columbia as to California, but in either case, apparently owing mainly to labour jealousy, a strong anti-Chinese feeling grew up, the United States passing a law in 1882 which suspended the immigration of Chinese labourers into the country for ten years.

In comparing the cases of Canada and Australia at this time, and in this connection, it will be borne in mind that Canada has no tropical or sub-tropical regions such as are to be found in Australia, and that the north of Australia is much nearer to China and Japan than is Canada.

Moreover it will be remembered that the 1881 Act of South Australia did not apply to the Northern Territory, which was thus left open to Chinese immigration, and that the 1886 Act of Western Australia did not apply to Chinese labourers brought into the Colony under the provisions of the Imported Labour Registry Act. On the other hand, with the Canadian Pacific Railway just being completed, the Dominion Government were anxious not to discourage trade and intercourse with the East, and were not desirous of taking strong steps in the direction of prohibiting Chinese immigration.

#### THE ANTI-CHINESE MOVEMENT IN AUSTRALIA IN 1888.

In July, 1886, the Chinese Minister in London protested against the offensively worded anti-Chinese law passed by the British Columbia Legislature in 1884; and in 1887, on the strength of reports which had been supplied by Chinese Commissioners who had visited the Australian colonies, he called attention to the exceptional laws against Chinese which had been passed in those colonies as well as in Canada. In the former letter he referred to Article 1 of the Treaty of Nankin in 1842, which provided that the respective subjects of Great Britain and China "shall enjoy full security and protection for their persons and property within the dominions of the other," and to Article 5 of the Treaty of Peking in 1860,\* in which the Emperor of China agreed to allow Chinese subjects to emigrate to British colonies. A circular despatch, dated 23rd January, 1888, was accordingly addressed to Canada and to the Australian colonies asking for reports on the subject. The receipt of this enquiry, coupled on the one hand with the news that the American

\* See Return of Clauses in Treaties between Great Britain and China relating to the Treatment of Immigrants, C. 5374/88.



Government had concluded a treaty with China prohibiting Chinese labourers from coming to the United States for 20 years,\* which seemed to be a useful precedent, and on the other with the fact that there had been a large influx of Chinese into the Northern Territory of South Australia, caused abnormal excitement in Australia; and on receipt of representations from the other colonies, the South Australian Government imposed a poll tax of £10 upon Chinese landing in the Northern Territory, and a quarantine of 21 days on all vessels from Chinese ports.

New South Wales took the lead in the agitation, and that colony and Victoria refused to allow some Chinese immigrants to land. The New South Wales Government brought in a Bill which became law under the title of the "Chinese Restriction and Regulation Act of 1888." This Act "to provide for the protection of the colony from the disturbances and national dangers of Chinese immigration" only allowed one Chinese to every 300 tons, and imposed a poll tax on arrival of £100. It forbade the naturalization of Chinese, and prohibited them from engaging in mining, except on the express authority of the Minister of Mines. On the other hand, Chinese who were British subjects were exempted from its provisions. While this Bill was before the New South Wales Parliament, a conference of representatives of all the Australian colonies was held at Sydney on 12th-14th June, 1888. Prior to its meeting the Secretary of State, Lord Knutsford, suggested that the immigration laws should be so framed as not to differentiate against Chinese alone, but to place restrictions on all foreign labourers, reserving power to the Governments to relax the rules in special cases. He urged that if China was thus placed on an equal footing with other nations, it might, if thought necessary, be possible to come to an international arrangement such as had been concluded between China and the United States.

At the conference, a Bill for the restriction of Chinese immigration was drafted (Tasmania dissenting and Western Australia not voting). Its main features were that the number of Chinese immigrants shall be limited to one to every 500 tons, and that no poll tax should be imposed. The abolition of the poll tax was intended as a measure of conciliation, in order to facilitate negotiations between the Imperial Government and that of China for a treaty under which all Chinese, except officials, travellers, merchants, students, and similar classes should be entirely excluded from the Australasian colonies. The feeling of the conference was that restriction of Chinese immigration would best be secured—

(i) through the diplomatic action of the Imperial Government;

\* This treaty was not ratified.

C. 5448, p. 35.

C. 5448, pp. 43-4.

C.O. print,  
Australian,  
No. 129, pp. 87,  
88.

Australian,  
No. 130, pp. 36-  
44.

(ii) through uniform Australasian legislation which would take effect at once and pending the result of the negotiations; but it was considered that the suggestion of the Colonial Office to impose general restrictions on immigration and not to differentiate against particular races was impracticable.

No distinction was made in the Bill between Chinese who were British subjects and others, and this was one of the grounds for the dissent of Tasmania. Further, the Imperial Government was asked by the conference to induce the Governments of Hong Kong, the Straits Settlements, and Labuan to prohibit Chinese emigration to Australia. On the question whether any exception should be made in favour of Chinese who were British subjects, the view taken by the Colonial Office, and endorsed by the Foreign Office, was that it would be well not to raise it pending negotiations with China. Further, the Governor of Hong Kong was instructed pending further orders, to refuse licenses for Chinese passenger ships proceeding to the Australasian Colonies, and the Governor of the Straits Settlements was instructed to discourage such emigration.

The New South Wales Government promised, as soon as any two of the other colonies should have passed the Draft Bill, to bring their legislation into harmony with it; and on this understanding the New South Wales Act was left in operation by the Imperial Government. The net result of the outburst of anti-Chinese feeling in Australia and of the conference was:—

South Australia passed in December, 1888, "An Act for the restriction of Chinese immigration," which followed, in most points word for word, the draft approved at the Conference. The last section provided that the Act should expire on 1st January, 1890, unless by that date Victoria, New South Wales, and Queensland had passed Acts substantially the same. The Act was subsequently made permanent by an Act of 1891.

Victoria passed in December, 1888, "An Act for the further restriction of Chinese immigration," which was in general accord with the Conference draft, though it differed widely in wording. This Act was replaced in 1890 by the "Chinese Act, 1890," which dealt not only with Chinese immigrants, but also with Chinese residents, and incorporated previous legislation respecting Chinese in Victoria.

Western Australia in November, 1889, passed an Act which was much the same as the South Australian Act and the Conference Bill.

Queensland in November, 1888, passed "A Bill for the further restriction of Chinese immigration" which went beyond the Conference Bill, the exemptions being less and the penalties heavier than in the Conference Bill. It was reserved by

C.O. print,  
Australian,  
No. 130, pp. 11,  
16, 17.

Australian,  
No. 130, pp. 17,  
27, 28.

Australian,  
No. 130, pp. 150-  
152.

Australian,  
No. 144, pp. 1-4.

Australian,  
No. 144, pp. 6-8.

Australian,  
No. 130, pp. 140-  
144.



the acting governor, and exception was taken to it by the Secretary of State. The Premier of Queensland defended its terms on the ground that it was in general accordance with the Model Bill, but that "our immense seaboard with its numerous ports, most of which give easy access to extensive goldfields, and also our position of first exposure to the influx of Chinese, are considerations which sufficiently explain any appearance of increased severity in our legislation for the restriction of such immigration." Lord Knutsford, on receiving assurances that the Bill would not be administered with harshness, and that a Bill would be introduced in the next session to amend one particular section, procured the Royal Assent to the Bill at the end of 1889. In August, 1890, an Amending Act was passed and again reserved. The Royal Assent was given to it, but Lord Knutsford invited further amendment, which the Queensland Government refused to entertain.

Australian,  
No. 130, p. 161.

In the meantime no steps seem to have been taken by New South Wales to bring the legislation of that Colony into harmony with the Conference Bill; while New Zealand, in August, 1888, passed an Act amending the 1881 Act by making the proportion of Chinese permitted to be brought into the ports of the Colony one to every 100 tons instead of one to every 10 tons, and by increasing the penalties. The last section provided that the Act should only remain in force till the end of the next session; but in the next session this section was repealed, leaving the Act standing. This Act, like its predecessor, was apparently not intended to apply to British natural born subjects.

Australian,  
No. 144, pp. 12-15.

Australian,  
No. 130, pp. 71-2.

The Australian conference had contemplated and welcomed negotiations between the Imperial Government and that of China for restriction of Chinese immigration. On hearing by telegram the results of the conference, a copy of the telegram was sent in June, 1888, to the British Minister at Peking, with instructions to negotiate a treaty, if possible, on the lines of the resolutions passed by the conference. Draft articles, as a basis for a treaty, were also suggested by the Colonial Office, sent to China and also sent, in a confidential circular, to the Governors of the Australian Colonies. These articles, which were drafted by Sir R. Herbert, were so framed as to "avoid all mention of the exclusion of Chinese from Australia, and put both countries on an equal footing in respect of the privileges and disabilities of their subjects."

Negotiations between the British and Chinese governments.

Australian,  
No. 129, pp. 87, 88, 109, 110.

Australian,  
No. 130, pp. 1, 15, 35.

Government officers, teachers, students, merchants or travellers, and all others than labourers were, if provided with certificates from their own Government, duly countersigned on behalf of the other Government, to be free to visit or reside in the countries belonging to the other

Articles drafted by Sir Robert Herbert.

Government. Labourers, including miners, artisans, manufacturers, agricultural labourers, servants, and all kinds of manual workers were to be admitted to live only in such parts of the possessions of the other country as might "from time to time be notified as being open to them, and under such laws or rules as may for the time being be established for regulating their numbers, and the conditions of their residence and employment. . ."

The draft continued, "It is understood and agreed that the permission so granted to reside and work in any place may be at any time withdrawn, without notice, and without compensation to persons whose employment or occupation may be thereby interrupted."

In September, 1888, as the result of negotiations at Peking, Lord Knutsford sent a confidential circular to the Governors of the Australian Colonies, intimating that the Chinese Government would probably accept an agreement on the following basis:—

- (a) All Chinese hereafter to be exempted from poll tax.
- (b) All Chinese now in Australia to enjoy most favoured nation treatment with right to leave and return.
- (c) Labourers going for the first time to be in the proportion of one to every 300 tons.
- (d) Chinese other than labourers, as well as their household servants, to be excluded from restriction.
- (e) Agreement to be in force for five years, and to apply exclusively to Australia.

Lord Knutsford pointed out that the main difference between these proposals and the Conference Bill consisted in the reduction of the tonnage proportion from 500 tons to 300.

The answers from the Australian Colonies, so far as they can be traced, were on the whole not unfriendly, the Queensland Ministers sending a reasoned memorandum on the subject; but no answer came from New South Wales, in spite of reminders, the last of which was sent in May, 1892; and the whole matter died out. It is worth recording that Sir Henry Loch, afterwards Lord Loch, who was Governor of Victoria in 1888, and whose views were specially valuable on account of his Chinese experience, gave as his opinion in January of that year that "There are many who realise that the Chinese are useful citizens, but who are constrained at present to be silent. In some portions of the Northern Territory of South Australia and Queensland, where Europeans cannot labour in the fields, it would be difficult, if not impossible, to carry on the construction of railways and other public works, if it were not for Chinese labour. In the first place, therefore, it seems desirable to arrive at some understanding by

Australian,  
No. 130, p. 64.

Australian,  
No. 130, pp. 139-140.

Australian,  
No. 129, p. 14.



which the influx of the Chinese into certain parts of the Australian continent on a too extensive scale may be regulated without injuriously affecting those districts where their labour is required for the progress and development of the country."

The terms drafted by Sir R. Herbert would have facilitated such a policy if accepted by the Australians.

#### SUMMARY OF THE EASTERN IMMIGRATION QUESTION IN 1890.

The above carries the record of restrictive legislation on Eastern races in the self-governing dominions down to about the year 1890, and it may be summed up—

- (i.) that so far practically the Chinese only had been concerned ;
- (ii.) that there had been no general desire in the colonies to make a distinction in favour of British subjects ;
- (iii.) that there was no inclination to adopt the "Natal Act" principle, *i.e.*, to legislate without openly avowing grounds of race ;
- (iv.) that the legislation was somewhat spasmodic and had not fully developed into a general anti-Eastern policy ;
- (v.) that only in Canada was there a federation and therefore a possibility of conflict between a federal and a provincial government on the question ;
- (vi.) that the British colonies in South Africa had not been at all concerned, though, as will be shown, the East Indian immigration had already caused difficulties in the Transvaal, then the South African Republic.

#### INDENTURED COOLIE IMMIGRATION.

Before tracing the later developments of the policy restricting Eastern immigration into the self-governing colonies, it will be well to say a word (i.) as to indentured immigration from India ; (ii.) as to Kanaka immigration into Australia.

Emigration, as defined by the Indian Emigration Act of 1883, is "the departure by sea out of British India of a native of India under agreement to labour for hire in some country beyond the limits of India other than the Island of Ceylon or the Straits Settlements." Emigration under contract is unlawful except to countries which are proclaimed as having made laws to the satisfaction of the Indian Government for the protection of Indian immigrants.

The origin and early history of indentured coloured immigration into the colonies is given

In Natal.

at pages 228, &c., of the Colonisation Circular of the Land and Emigration Commissioners for 1877. It was the direct result of the abolition of slavery. It is rather difficult to say when it began. There was some coolie immigration, mainly to Mauritius, between 1834 and 1838, and it started again in 1842. The report of the Select Committee on Transportation, of which Sir W. Molesworth was Chairman, and which reported in 1838, contains the following passage : "A proposal has been made by some of the colonists of New South Wales to import Hindus as indentured apprentices, who are to be sent back to Hindustan at the expiration of their period of indenture. This scheme has been most justly objected to by the Government as one of the innumerable descriptions of slavery to which, under various appellations, designed to conceal its nature, colonists have had recourse, when suffering under the pressure of a want of labour. If the Hindus should return to their native land, this expedient for furnishing labour must be of a most temporary nature, merely providing the colonies with a few thousand labourers for a few years and totally inadequate for that extension of industry of which New South Wales is capable ; on the other hand, if the Hindus remain and multiply in that colony, they will form at all events, a separate, probably a slave caste ; and your Committee can hardly believe that any statesman, who possesses any knowledge of the social and political difficulties which arise from a slave caste in the Southern States of America, would consent to curse Australia with a similar evil."

Although from the passage in the report of the Royal Commission in Canada of 1902 on Chinese and Japanese immigration which has been quoted above, it would seem that East Indians immigrated years ago into British Columbia, the only present self-governing colony which has imported East Indian coolies under the indentured system is Natal, which has a sub-tropical sugar-growing coastline, and which began to import these labourers in 1860. Between that date and the end of 1875 some 12,000 East Indian immigrants had been brought into the Colony, 1,300 of whom had been repatriated at the expense of the Colonial Government. On the 31st of March, 1906, there were 32,586 indentured Indians in the Colony.\* The report of the Protector of Indian Immigrants for 1907, shows that on the 31st December, 1907, there were approximately 102,857 Indians in the Colony, of whom 61,441 were free, 33,444 indentured, and 7,912 re-indentured. It also shows that between 1860 and the end of 1907 135,408 Indians have been brought in under indenture and 38,767 have been born in the colony. The system, however, has strong opponents in this colony, and there is now

\* Parliamentary Paper [H.C. 357], November, 1906, Coolie Labour, pp. 28 and 29.



(June, 1908) a Bill before the Natal Legislature to prohibit indentured Indian labour as from 30th June, 1911. In a despatch relating to this Bill, and dated the 8th of May, 1908, the Governor, Sir M. Nathan, wrote: "Prior to the end of 1860 there were no Asiatics in Natal. At the end of 1906 against a population of 94,370 Europeans there were 112,126 Asiatics, of which number no less than 101,963 were Indians who had arrived under indenture, or were descendants of persons who had so arrived. Of the total (112,126) 72,305 were persons no longer under indenture."

Permission was given to Queensland by the Indian Government in 1864 to introduce coolies, but no such immigration into the colony took place and, though in 1882 South Australia passed a Northern Territory Indian Immigration Act, that Act seems to have been a dead letter, no arrangements having ever been made to appoint the officials mentioned in the Act. According to the census of 1901 there were only 439 East Indians in South Australia, all males, of whom 295 were on board ship. This was as against 3,455 Chinese (including half-castes) of whom 2,712 were in the Northern Territory and 408 on board ship. In 1906 the Governor of South Australia reported that "there is no indentured labour in this State or in the Northern Territory of South Australia."\*

#### KANAKA IMMIGRATION INTO AUSTRALIA.

Fiji is one of the Colonies which imports East Indian coolies for the sugar plantations. It also employs Polynesian labour. The latter subject, the employment of Polynesian labour, can only receive a brief mention here. It has been principally known in connexion with Australia, where the Kanakas, as they were termed, were mainly imported into Queensland and utilised on the sugar plantations in the northern—the tropical districts of that Colony. It was a case of recruiting coloured labour from neighbouring countries not, as in the case of East Indian labour, from different continents, and it is interesting as illustrating the change of feeling which has taken place in regard to coloured labour. It began with more or less compulsory importation, and it ended with compulsory repatriation. An Imperial Act was passed in 1872 "for the prevention and punishment of criminal outrages upon natives of the islands in the Pacific Ocean," and another in 1875; and various Acts were passed by the Queensland legislature, regulating the recruiting and the employment of the labourers under indenture.†

\* Parliamentary Paper [H.C. 357], November, 1906, Coolie Labour, p. 19.

† See a pamphlet in the Colonial Office Library entitled "Queensland. Imperial and Colonial Acts relating to the Recruiting, &c., of Pacific Island labourers and regulations made thereunder" (1892).

Eventually, in 1901, the Commonwealth Parliament passed an Act (16 of 1901) "to provide for the regulation, restriction, and prohibition of the introduction of labourers from the Pacific Islands and for other purposes." Apparently in Queensland which was practically the only State concerned, feeling was divided, the sugar planters naturally favouring coloured labour and the white labourers being opposed to it.

Three thousand of the Pacific Island labourers affected by the Act petitioned the Imperial Government against it on the ground of the great hardship which would be involved in the proposed compulsory repatriation, but Mr. Chamberlain refused to interfere on the ground that "the Act involves no Imperial public interest and that in other matters His Majesty's Government are not prepared to take upon themselves the functions of a Court\* of Appeal from the Parliament of a self-governing colony." A further Commonwealth Act, passed in 1906, granted exemptions which modified the hardship of the 1901 law. According to the latest Returns there were in April, 1906, between 6,000 and 7,000 Kanakas in Queensland and Northern New South Wales, of whom between 4,000 and 5,000 were repatriated.†

#### 1890-1900.—EVENTS WHICH BORE ON THE EASTERN IMMIGRATION QUESTION.

The Anglo-Japanese treaty of 1894.

Between 1890 and the end of 1900 the following events took place which had an indirect effect upon the question of coloured immigration into the self-governing Colonies.

(i.) The British treaty of Commerce and Navigation with Japan was signed in July, 1894. Under the first article "the subjects of each of the two High Contracting parties shall have full liberty to enter travel or reside in any part of the dominions and possessions of the other contracting party"; but, by Article 19, the treaty was not to be applicable to the self-governing colonies which were specified by name, or to India, unless notice was given of their adhesion within two years. Of the self-governing colonies only two adhered, and neither adhered within two years, but each came in under a special protocol. The two were Canada and Queensland. Canada adhered after the treaty of alliance between Great Britain and Japan of August, 1905. Queensland adhered in 1897 with the condition that the Queensland Government might regulate by law the immigration into the Colony of Japanese labourers

\* See "Papers relating to the Pacific Island Labourers' Act, 1901, of the Commonwealth of Australia. September, 1902 [Cd. 1285], and April, 1903 [Cd. 1554].

† Commonwealth—Parliamentary Paper, No. 173, 1908.



and artisans. This treaty of 1894, supplemented by the treaty of alliance of 1905, brought Great Britain into special relations with Japan, while Japan was by war and peace developing into a first class nation, presenting the new problem of a purely Eastern nation having vindicated its right and shown its ability to be treated on a level with Western nations. It will be noted in this connexion that since the war with Russia, Japan has shown the historical tendency of nations, especially sea-going nations, which have consolidated their power at home, to overflow abroad.

(ii.) This subject of coloured immigration was in 1897 first taken up at a Colonial Conference under the heading "alien immigration." In his opening speech Mr. Chamberlain said that there had been legislation in some of the Colonies in regard to the immigration of aliens, and particularly of Asiatics, and that the only one of the Bills which could be thought satisfactory was one passed by the Natal Government. He asked the Premiers "to bear in mind the traditions of the Empire which make no distinction in favour of or against colour"; he pointed out the great difficulty which exclusion of Indians *quâ* Indians would cause; and he suggested that what had to be dealt with is "the character of the immigration." "It is not because a man is of a different colour from ourselves that he is necessarily an undesirable immigrant, but it is because he is dirty, or he is immoral, or he is a pauper, or he has some other objection which can be defined in an Act of Parliament." In addition to the Natal Act, Bills restricting coloured immigration had, at the time of the Conference, been received from New South Wales, South Australia, Tasmania, and New Zealand. These Bills were the outcome of a Conference of Australian Premiers, which resolved that the provisions of the Chinese immigration restriction ordinances should be extended to other coloured races. The New South Wales and South Australia Bills made no exemption in favour of British subjects, but the Tasmanian Bill exempted them, and the New Zealand Bill exempted British Indians. Mr. Chamberlain laid also a good deal of stress on the desirability of discriminating between British subjects and foreigners. The chief spokesman of the White Australia policy was Mr. Reid, the Premier of New South Wales, but he was strongly supported by the others, except the premier of Queensland, who took a somewhat different attitude. There was a tentative suggestion by Mr. Reid that while the New South Wales Bill should stand as it was for foreigners, British subjects might be dealt with by a clause giving the Governor power to exclude any person or class of person. No resolution was arrived at, and nothing definite seems to have come from the discussion, nor did the Bills in question receive the Royal Assent.

The Colonial Conference of 1897.

See C.O. print, Miscellaneous, No. 111, Sept. 1897, pp. 9, 10, 130-140, and Appendices.

Proceedings of a Conference between the Secretary of State for the Colonies and the Premiers of the Self-governing Colonies at the Colonial Office, London, June and July, 1897. C. 8596. July, 1897, p. 18.

The Australian Commonwealth Act.

The official report of the proceedings of the Conference had the following reference to what passed on this subject. "On the question of the legislative measures which have been passed by various Colonies for the exclusion of coloured immigrants, a full exchange of views took place, and, though no definite agreement was reached at the meeting, as the Premiers desired to consult their colleagues and Parliaments on the subject, Her Majesty's Government have every expectation that the natural desire of the Colonies to protect themselves against an overwhelming influx of Asiatics can be attained without placing a stigma upon any of Her Majesty's subjects on the sole ground of race or colour."

(iii.) In July 1900 the Australian Commonwealth Act was passed by the Imperial Parliament, coming into effect on 1st January, 1901. Under its provisions Immigration and Emigration became a Commonwealth matter, and thenceforward the States have dealt with coloured immigration only incidentally in laws on miscellaneous subjects.

#### 1890-1900.—THE AUSTRALIAN COLONIES.

\*C.O. print, Miscellaneous, No. 158/03.

In September, 1902, the French Ambassador enquired what laws and regulations were applicable in Australia, South Africa, and Hong Kong to immigrants of Asiatic race, and whether Japanese subjects were classed with other Asiatics.

\*C.O. print, Miscellaneous, No. 168/04.

The Governor of New South Wales reported that the only Act in force in that colony bearing on the subject was the Chinese Restriction and Regulation Act of 1888, which has been referred to above. As has been seen, the New South Wales Bill which formed the subject of discussion at the Colonial Conference in 1897, and which made the restrictions on Chinese immigration applicable to all persons belonging to any coloured race inhabiting the continent of Asia or the continent of Africa or any island adjacent thereto or any island in the Pacific Ocean or the Indian Ocean, did not receive the Royal Assent; but, though the Governor did not report it, the New South Wales Legislature in 1898 passed an Act, embodying the principle of the Natal Act, and similar Acts were passed by Western Australia in 1897 and by Tasmania in 1898-9.

South Australia—whose Act for the restriction of coloured Immigration, passed in 1896 and brought up at the Colonial Conference in 1897, also did not receive the Royal Assent—Victoria, and Queensland do not appear to have legislated

\* N.B.—The information in these two White Books is rather misleading.



on the lines of the Natal Act, although in 1899 an Immigration Restriction Bill was introduced into the Legislative Assembly of Victoria which contained the education test clause and also a clause that "Nothing in this Act contained shall be deemed to repeal or remove, or permit the removal of, any restriction or condition imposed by the Chinese Act, 1890, upon the admission of Chinese into Victoria." Meanwhile in all the Australian Colonies there was a growing tendency to impose disabilities on coloured immigrants in Acts dealing with the franchise, mines, lands, factories and so forth.

The Western Australia Chinese Immigration Restriction Act of 1889 was amended by a further Act in 1893, which on the one hand provided that Chinese naturalised in Western Australia should be exempted from the provisions of that Act, and on the other provided that no Chinese should be imported under the "Imported Labour Registry Act of 1884" (*See above*, p. 6) contrary to the provisions of the 1889 Chinese Restriction Act. But in 1897 a fresh Imported Labour Registry Act was passed which took the place of the 1884 Act. It defined labourer as "any male person apparently a native of India, China or Africa or of the islands of the Indian or Pacific Oceans or of the Malayan Archipelago and brought into the colony as a labourer or servant or for other similar employment."

It provided that the labourers were not to exceed one to every 500 tons, that they were not to enter that part of the colony which lay to the South of 27° South latitude, that they were to be under a prescribed form of contract and were to be repatriated at the end of their term.

A despatch which Mr. Chamberlain wrote to the Governors of the Australasian colonies (except Queensland) on 20th October, 1897, and which was subsequently published in Australia, is interesting as supplementing the views which he expressed at the Colonial Conference, as showing the growing concern of Japan in this question of immigration, and as evidence of the advantage of legislating on the lines of the Natal Act. The later paragraphs of the despatch were as follows:

"M. Kato maintained that the provision in the Act passed by the colony of Natal that immigrants should write out a certificate in some European language would practically effect the object of the colonies, as only educated Japanese would be able to pass the test and of these very few would wish to emigrate. This result, he added, would even more certainly be obtained with regard to other Asiatic countries, where general education is less advanced than in Japan, and frauds could be prevented by more or less frequent changes in the certificate."

House of Commons Paper 383, December, 1900, a Return of "Restrictions upon British Indian Subjects in British Colonies and Dependencies," pp. 8-11.

"These representations deserve the careful consideration of your Government. As I pointed out at the conferences with the Premiers, the provisions of the Natal Act would exclude all undesirable persons, without casting a slur on any race or colour."

"If the state of feeling in the colonies precludes the possibility of adopting a measure similar to the Natal Act, I would earnestly request your Ministers to consider whether, so far as British Indian subjects and Japanese are concerned, the exclusion desired might not be obtained by a general test such as is provided by that Act."

It will be seen below (p. 25) that the Japanese subsequently did not take so favourable a view of the principle of the Natal Act.

Mr. Chamberlain reiterated his views on this subject in a despatch of 14th May, 1901, which was written to the Governor of Queensland, and which criticised a Queensland Bill to amend the Sugar Works Guarantee Acts, 1893 to 1895. He wrote:—

"His Majesty's Government fully appreciate the motives which have induced the Government and Legislature of Queensland to pass that particular provision of the Bill now under consideration, but they feel nevertheless bound to take objection to that provision on two grounds."

"In the first place it embodies a disqualification based on place of origin—i.e., practically a distinction of race and colour. Any attempt to impose disqualifications on the base of such distinctions, besides being offensive to a friendly power, is contrary to the general conceptions of equality which have been the guiding principle of British rule throughout the Empire. Disqualification by educational tests, such as are embodied in the immigration laws of various colonies, is not a measure to which the Government of Japan or any other Government can take exception in behalf of its subjects; and if the particular tests in these laws are not regarded as sufficiently stringent, there is no reason why more stringent and effective ones of a similar character should not be adopted. But disqualification for certain employments on the sole ground of place of origin is a measure to which any Government concerned may reasonably object; and in the present Bill the aboriginal natives of two continents, and of the Pacific Islands, are disqualified solely on that ground."

"In the second place, besides being contrary to the general policy on which the British Empire is based, the Bill is objectionable as embodying a provision which is



peculiarly offensive to Japan, a power with which His Majesty's Government is and earnestly desires to remain on friendly terms. It not only excludes Japanese from certain employment, but in excluding them it places them in the general category of Asiatic races, without any consideration being paid to their state of civilization."

Queensland, it may be noted, had in 1897 adhered, with modifications, to the Anglo-Japanese Treaty of 1894. Further reference will be made to this subject below (p. 33).

#### 1890-1900.—NEW ZEALAND.

It has been seen that New Zealand (which colony rather acted in consonance with the Australian colonies than because any particular pressure of Eastern immigration was actually felt) passed, in 1881, a Chinese Immigrants Act, imposing a poll tax of £10 on each Chinese immigrant, and limiting the number to be brought into the colony to one to every ten tons of registered tonnage, and that in 1888 a further Act was passed limiting the immigration to one to every 100 tons of registered tonnage. In 1896 an "Asiatic Restriction Act" was passed, but did not receive the Royal Assent (this was the Act which came before the Colonial Conference of 1897), and in the same year a Chinese Immigrants Act (originally intended to be only a temporary measure until the Asiatic Restriction Act came into force) was also passed, increasing the poll tax on Chinese immigrants to £100, and limiting the number of Chinese immigrants to one to every 200 tons of registered tonnage.

As the result of the Colonial Conference of 1897 the New Zealand Legislature in 1899 passed an Immigration Restriction Act embodying the principle of the Natal Act; but section 21 of this Act provided that Chinese should not be subject to its provisions, but should remain under the provisions of the Act which specifically applied to them. In 1907 this was altered and an "Act to amend the Chinese Immigrants Act, 1881," was passed, providing that no Chinese should be allowed to land in New Zealand unless "able to read a printed passage of not less than one hundred words of the English language." The number of Chinese in the Dominion has, it may be noted, greatly decreased of late years, being only 2,570 in 1906 against 5,004 in 1881.

#### 1890-1900.—CANADA.

In Canada the original Chinese immigration Act and amending Acts of 1887 and 1892 were in 1900 repealed and replaced by a new Chinese

See the Chinese petition in 14053/08, New Zealand.

immigration Act under which every Chinese immigrant on entering Canada was to pay \$100.

Report of the Canadian Royal Commission on Chinese and Japanese Immigration, Session 1902, p. 257.

This Act in turn was repealed and replaced by another in 1903, which was the outcome of a Commission, and to which further reference will be made. From the report of that Commission, it appears that in British Columbia, exclusive of Cassiar and Cariboo, there were, in 1880, 4,350 Chinese; in 1890, 8,910; in 1900, 14,532. The census of 1901 showed that there were then 17,043 Chinese in Canada, of whom 14,576 were in British Columbia and 1,043 in the province of Quebec.

Anti-Japanese legislation in Br. Columbia. See "Documents relating to the recent disallowance of certain statutes passed by the Legislature of British Columbia," laid before the Dominion Parliament in 1899. Copy attached to 17507/99.

About the same time that the Japanese began to protest against Australian legislation they protested also against the legislation of British Columbia. In 1898 the British Columbian legislature passed a number of private Acts, each of which contained a clause imposing a penalty of \$5 a day "for each and every Chinese or Japanese person employed" in the undertaking authorised by the Act. They also passed a labour regulation Act, the full title of which was "An Act relating to the employment of Chinese or Japanese persons on works carried on under franchises granted by private Acts," the object of which was to exclude Chinese or Japanese labour in such cases. The Japanese representatives, both in Canada and in England, protested, and Mr. Chamberlain wrote on 20th July, 1898, instructing the Governor-General to impress upon his ministers "that restrictive legislation of the type of which the legislation in question appears to be is extremely repugnant to the sentiments of the people and Government of Japan, and you should not fail to impress upon them the importance, if there is any real prospect of a large influx of Japanese labourers into Canada, of dealing with it by legislation of the Dominion Government on the lines of the accompanying Natal Act, which is likely to be generally adopted in Australia." It may be noted that among the grounds on which the Japanese Consul at Vancouver based his protest were that "it is a well-known fact that the education and character, customs and manners of Japanese are entirely different from those of Chinese," that "the number of Japanese residents in British Columbia, not exceeding one thousand and odd persons, is less than one-tenth of that of Chinese," and that "the Government of Japan controls the movements of emigrants . . . so that the emigration into any country can be restricted to proper extent by the Government of Japan."

The Dominion Government referred to the British Columbia Government, who replied that a "Natal" Act would be for the Canadian Parliament to pass and not for the provincial legislature, but that it would be more onerous to the Japanese than the provincial legislation



complained of, which only referred to employment of Japanese on such public works as were authorised to be carried out by Acts of the legislature. "The legislature has scrupulously abstained from any interference with the employment of Japanese by private individuals or companies, and has not sought to put any restriction on their engaging in any ordinary occupation or business." The provincial government went on to contend that "It is unquestionably in the interests of the Empire that the Pacific province of the Dominion should be occupied by a large and thoroughly British population rather than by one in which the number of aliens largely predominated, and many of the distinctive features of a settled British community were lacking." Accordingly they declined to repeal the obnoxious provisions.

This minute was sent to England, and Mr. Chamberlain replied on 19th April, 1899, that His Majesty's Government appreciated the motives and the object of the legislation, but objected to the method. "It is not the practical exclusion of Japanese to which the Government of the Mikado objects, but their exclusive nomination, which specifically stamps the whole nation as 'undesirable persons.'" He added that "any attempt to restrict immigration or to impose disqualifications on such distinctions, besides being offensive to friendly powers, is contrary to the general principles of equality, which have been the guiding principle of British rule throughout the empire," and he asked once more that the provisions should be repealed by the British Columbia Legislature, or else that the Dominion Government should take steps to cancel them, inasmuch as His Majesty's Government objected to them "on grounds both of principle and policy."

The outcome was that the Dominion Government disallowed the Labour Regulation Act and a Tramway Incorporation Act. On grounds of convenience and vested interests, they left the Private Acts standing, but asked the provincial government to repeal the objectionable clauses in the next session. In the following year 1899, they also disallowed a Liquor Licences Act which discriminated against Chinese, Japanese and Indians, and an Act to amend the Coal Mines Regulation Act which extended restrictions on Chinese labour in coal mines to Japanese. In reporting on the 1898 Acts, the Dominion Minister of Justice noted that "the authority of a province to legislate in relation to immigration in the province is, by the British North America Act, made subordinate to the authority of Parliament," and also that "the power of the legislature to enact these statutes is not by any means free from doubt, because they principally affect the rights of aliens, and the subject of aliens is not within provincial authority."

The Japanese Government gratefully acknowledged the friendly action of the British and the Dominion Governments in the matter.

Report of the  
Canadian Royal  
Commission,  
1902, pp. 327,  
389.

In 1900 there was a great influx of Japanese into British Columbia, over 10,000 arriving between 1st July, 1899, and 30th June, 1900, but they seem to have principally gone on to the United States, as by the census of 1901 there were only 4,674 Japanese in Canada, of whom 4,515 were in British Columbia.

31430/1903.

Report of 1902  
Commission,  
pp. 2, 3.

In August, 1900, on account of the popular feeling in the United States and British Columbia, the Japanese Government temporarily prohibited immigration into British Columbia. The British Columbian legislature in this year passed a "Natal" Act, and a Labour Regulation Act embodying an education test. It also passed a Liquor Licences Act which differentiated specifically against Mongolians and Indians. The Japanese Government protested against these three Acts as well as against a Vancouver Incorporation Act, which withheld the municipal franchise from Chinese, Japanese and Indians. The first two Acts were disallowed. It is noteworthy that the Natal principle, which had previously contented the Japanese Government, had no longer that effect, in view no doubt of the strong feeling aroused in Japan by the determined anti-Asiatic policy of the British Columbia legislature.

All through this decade 1890-1900, the Government of British Columbia from time to time urged that the Canadian Chinese Immigration Act should be strengthened; and in 1900 the Legislative Assembly of the province passed resolutions asking the Dominion Government either that the capitation tax should be raised to \$500, a bill to which effect had been introduced in the Canadian House of Commons in 1898 and had called forth a protest from the Japanese Consul at Vancouver as it proposed to include Japanese, or that an Act should be passed on the lines of the Natal Act. In the autumn of 1900, a Royal Commission was appointed by the Dominion Government to enquire into the question, and in 1902 they made their report.

#### 1890-1900.—SOUTH AFRICA.

South Africa.

The coloured immigration problem had before the nineties not troubled the Cape and Natal. There is a considerable number of Malays in and near Capetown, and Natal has, as has been seen, a large number of indentured coolies and a still larger number of East Indians who have either been themselves in the past indentured coolies or are the descendants of indentured coolies. The total of the Indian population of Natal at the 1904 Census was 100,727. It will be remembered that Natal did not receive responsible government until 1893, and within four years of that date the famous Natal Act was passed.



The importation of indentured East Indian coolies into Natal was presumably in part responsible for the presence of an East Indian element in the Transvaal, and legislation in restriction of coloured immigration was initiated in that State, while it was the South African Republic, long before any law of the kind was passed in the British Colonies of Natal or the Cape. The law of 1885 was entitled a "law respecting coolies, Arabs, and other Asiatics." The first clause stated that "this law is applicable to the persons belonging to one of the aboriginal races of Asia, among whom are comprehended the so-called coolies, Arabs, Malays, and Mohammedan subjects of the Turkish Empire." They were declared to be incapable of acquiring the citizenship of the Republic, or of being owners of landed property in the Republic; and those who came in for purposes of trade were to be registered.

The Transvaal  
law of 1885.  
C. 7911, p. 57.

This law was somewhat modified in 1886, but it led to political complications, a history of which is given in Mr. Lyttelton's despatch of 20th July, 1904. In 1890 the Orange Free State passed a law providing that "No Arab, Chinaman, coolie, or other Asiatic coloured person may settle in this state, or remain here for longer than two months without first having obtained permission so to do from the State President." This law has practically excluded Asiatics from the country.

Cd. 2239/04,  
p. 38.

The Orange Free  
State law of 1890.

The Natal Act "to place certain restrictions on Immigration," known as "the Immigration Restriction Act, 1897," was passed by the Colonial Government in May 1897, just before the Colonial Conference. It was repealed in 1903, and re-enacted in an Act of that year. "To place closer restrictions on Immigration." Its main feature was that it included under the head of "prohibited immigrants" any person who, when asked to do so by an officer appointed under this Act, shall fail to himself write out and sign in the characters of any language of Europe, an application to the Colonial Secretary in the form set out." The mention of "any language of Europe" showed that it was directed against Asiatics, but the Act had the merit of not specifying any particular race, and, therefore, as a choice of evils, has become somewhat of a model. This language test was to a certain extent embodied in another Natal Act which was passed at the same time, an Act "to amend the law relating to licences to wholesale and retail dealers," the Dealers' Licences Act 18 of 1897, which provided that no licence should be issued to any person unable to keep books in the English language. This provision was at the time interpreted as being satisfied by employing someone with the necessary qualification, but more recently inability on the part of a trader personally to keep account in the English language seems to have been made a ground for refusing a licence. These two Bills, which, with

The Natal Act  
of 1897.

20435/07.  
19645/08.

a Quarantine Bill, were regarded as embodying the anti-Indian policy of the Natal Government of the time, represented the antagonism of the white labourers and shopkeepers of the colony to the Asiatics. The debates of the time in the Legislative Assembly show that in the last six months of 1896 there had been an unusual immigration into Natal of East Indians not under contract. Plague had been prevalent in Bombay, and there was a consequent exodus from that Presidency. "A portion of that overflow," said the Prime Minister of Natal, in moving the second reading of the Immigration Restriction Bill, "reached Natal, influenced perhaps by considerations of fear of the plague, but more likely by considerations of the advantages offered by this as a place of residence for Indians, . . . and it looked as if there was one of those great waves of emigration which sometimes occur which relieve one country at the time that other countries are peopled." The Colonial Government was faced with the possibility of two dangers, the first and immediate danger that the plague would be introduced, the second and more permanent danger that if the flow of immigrants was not stopped "the whole of the social policy of the country would be disturbed." Their hands were strengthened or forced by public meetings and demonstrations at Durban in January 1897. They had before them the alternatives of legislating on the lines of the Australian Bills directly against Asiatics or on the lines of an American Act which imposed restrictions in kind and not by race. Eventually they chose the latter model, as being on the line of least resistance; but whereas the American Act prohibited the immigration of "persons who cannot read and write in their own language or in some other language" the Natal Act made a European language a *sine qua non*.

This law and the others passed at the same time gave rise to petitions from the Indians and their representatives and to correspondence with the India Office; and, though the acts were not disallowed, Mr. Chamberlain expressed his views upon the policy in despatches to the governor as follows:—

No. 99, 12th  
Nov. 1897,  
16815, Natal.

"You will point out to the Memorialists that the Immigration Restriction Act, the most important of those which they complain of and which they ask that His Majesty may be advised to disallow, does not affect British Indians as such, although it originated from the strong feeling which prevailed in Natal against an apprehended extensive immigration from India. This Act prohibits the immigration of certain classes of persons, whom the Colonial Legislature considers to be undesirable inhabitants—among others those who are not conversant with any European language. This disqualification will no doubt affect a large number of British Indians.



I do not, however, consider it so unreasonable, in the circumstances of Natal, as to justify me in advising Her Majesty to exercise her power of disallowance with regard to the Act." And again—

"While I desire to express my satisfaction that this legislation is couched in general terms, and does not place any special stigma upon any class of Her Majesty's subjects, I still regret the necessity for its enactment."

It may be noted that in 1896, the year before the Natal Legislature passed the Immigration Act, it passed an Act (8 of 1896) which excluded from the franchise persons "who (not being of European origin) are natives or descendants in the male line of natives of countries which have not hitherto possessed elective representative institutions founded on the Parliamentary franchise," unless any such persons should be specially exempted by the Governor in Council.

The Cape did not follow the example of Natal and pass an Act restricting immigration until 1902. The Immigration Act of that year will be noted later on (p. 45).

#### SUMMARY OF RESTRICTIONS UPON BRITISH INDIANS UP TO 1900.

A House of Commons' Return (383) of December, 1900, gives the "Restrictions upon British Indian subjects in British Colonies and Dependencies" as they stood at that time.

In New South Wales British Indians were "eligible to select land, to hold an elector's right, to trade, and to exercise the same rights of citizenship" as other British subjects, but were subject like all other immigrants to the Immigration Restriction Act of 1898, with its education test. In Victoria they were under no disabilities. In Queensland they were subject to certain electoral and other disabilities under specified Acts. In South Australia they were subject to no disabilities. In Tasmania, they were, as in New South Wales, subject only like other immigrants to an education test. In Western Australia they came under the Imported Labour Registry Act of 1897, which has been noticed above (p. 20). In New Zealand they were in the same case as in New South Wales and Tasmania. In the Cape there were "no general disabilities or restrictions of any sort imposed by the Legislature upon British Indians as such." They were under certain municipal restrictions in Kimberley and East London. In Natal they were under various restrictions in addition to those imposed by the Franchise Act of 1896, and the Immigration Restriction Act of 1897, which have been already noticed. Owing to a misunderstanding Canada did not send a return, but there were no disabilities attaching to British Indians in the Dominion at this time.

No. 101, 12th  
Nov. 1897,  
23735, Natal.

#### 1900-1908.—QUESTION OF RESERVING BILLS IMPOSING DISABILITIES ON ASIATICS.

The modern history of this question dates roughly from 1900. Between that date and the present time there has occurred (1) the introduction of Chinese coolies into the Transvaal which, with the political agitation which followed, tended to increase the feeling against coloured immigration generally, both in the United Kingdom and in the self-governing colonies; (2) the Anglo-Japanese treaty of 1905; (3) the rise of the labour party in this country.

34714/05, West  
Australia,  
General.  
9952/06, New  
Zealand.

Before referring to what has taken place in the different groups of colonies during these last years in connexion with Asiatic immigration, it will be well to notice a confidential circular which was sent out from this office to the self-governing colonies bearing on the subject in November, 1905, and which was cancelled in May, 1906. The Western Australia Factories Act of 1904 imposed disabilities upon Asiatics against which certain British Indian traders living in the colony protested. They sent their protest through the Indian Government, who in 1905 expressed a strong opinion to the effect "that the Act should not have been passed into law until we had been given an opportunity of expressing our views regarding it" and asked "that we may be consulted in future before any measures of this nature, which prejudicially affect the interests of natives of British India are passed." The India Office supported the Indian Government and suggested that the Colonial Government might be asked to repeal the objectionable clauses. Mr. Lyttelton did not think "that it is practicable to arrange that Colonial Governments and parliaments shall consult the Government of India before passing such acts," but following on the correspondence a confidential circular was in November, 1905, sent to all the self-governing colonies except Newfoundland, where there is no coloured population, and Natal, where such instructions already existed, intimating that any future bill containing provisions which subjected to disabilities or excluded from privileges natives of Asia, Indians, Japanese, etc., under that express description, should be reserved for His Majesty's pleasure. The governments of the Commonwealth and of New Zealand, more especially that of New Zealand, took exception to these instructions on the ground that they were in restraint of the rights of self-governing colonies, and that if such restrictions were imposed, they should be imposed publicly by Royal Instructions. The result of the protest was that the circular was cancelled, the Secretary of State asking to be always supplied at once with copies of any Bill introduced into a colonial parliament, affecting Imperial matters. The only self-governing colonies in which Bills affecting Asiatics must now be reserved are Natal, the Transvaal, and the Orange River Colony. In Natal, by the



Royal Instructions, the governor is bound to reserve:

"Any Bill whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable."

The same words are inserted in the Letters Patent which gave self-government to the Transvaal and Orange River Colony, and are therefore part of the constitution in those two colonies, having the force of law and not merely being an instruction to a governor.

Although, however, the Governors of the other Dominions are not bound by their Instructions to reserve Bills imposing disabilities on Asiatics, they are entitled to do so at their discretion, and recently the Governor of New Zealand was told by Lord Elgin that "His Majesty's Government have relied and still rely on the discretion of the Governor to reserve, for the signification of His Majesty's pleasure, any Bill which appears to him so vitally to affect Imperial interests as to require reservation . . .

. . . and I may specially mention questions of treaty obligations, merchant shipping, the treatment of non-European members of the community, and Asiatic immigration, as matters in connexion with which reservation may, from time to time, appear advisable." It will be noticed that this view of Asiatic immigration Acts differs somewhat from that held by the Secretary of State in 1884 as regards Chinese as quoted above on p. 8.

A similar intimation has been made to the Governor of Victoria, and the matter has been discussed with the Governor-General of the Commonwealth.

31st March '08.  
8088/08, New Zealand.

12327/08,  
Victoria.  
C. O. print,  
Dominions,  
No. 4.

#### 1900-1908.—AUSTRALIA.

A Blue Book of July, 1904, gives some but not all of the laws and regulations in force at that date in the self-governing Dominions in restriction of immigration, whether white or coloured.

In 1901 the Commonwealth Parliament passed an Act "to place certain restrictions on immigration, and to provide for the removal from the Commonwealth of prohibited immigrants." This was on the lines of the Natal Act and prohibited immigrants including "any person who, when asked to do so by an officer, fails to write out at dictation and sign in the presence of the officer a passage of fifty words in length in an European language directed by the officer." This Act

Cd. 2105/04.  
Papers relative to the laws and regulations in force in the Colonies under responsible government respecting the admission of immigrants.  
See also C. O. print,  
Dominions,  
No. 3.  
Correspondence relating to the treatment of Asiatics in the Dominions.  
The Commonwealth Immigration Act of 1901.

was amended by an Act of 1905, which substituted for the above words the words "any person who fails to pass the dictation test, that is to say who, when an officer dictates to him not less than fifty words in any prescribed language, fails to write them out in that language in the presence of the officer." This dictation test seems to be somewhat of a farce, as a Return presented to the Commonwealth Parliament in March, 1908, shows that no persons passed the dictation test in that year, whereas 1,424 Chinese, 521 Japanese, and 129 Hindus, were admitted without being asked to pass it. Most of the Chinese, however, had been formerly domiciled. More Chinese left than came in during the year, but it was the reverse with the Japanese, the majority of whom were brought in for the pearling industry. The character of the test, when applied, can be gathered from the following passage set to a Chinese immigrant in April 1908. "Very many considerations lead to the conclusion that life began on the sea, first as single cells, then as groups of cells held together by a secretion of mucilage, then as filaments and tissues. For a very long time low grade marine organisms are simply hollow cylinders through which sea water streams."

The Commonwealth Immigration Restriction Act of 1901, and a Postal Act of the same year, which provided that only white labour should be employed in the mail contracts, called forth protests from the Japanese Government, who complained that, while the Immigration Act imposed an educational qualification without distinction of race or colour, its introduction had been coupled with declarations by the Prime Minister (Mr. Barton) and the Attorney-General (Mr. Deakin) that the test was directed against the Japanese. Mr. Chamberlain, however, refused to interfere. He noted "that the Japanese Government have already acquiesced in the principle of the practical exclusion of their Nationals from Australia, and have laid stress only on the question of the form by which effect was to be given to that principle," and he pointed out that the form of the Bill was such as not to be offensive to Japan, and that "in all probability if the present Bill were disallowed, or the Commonwealth Government induced to drop it, the only result would be the passage of an even more drastic measure, framed with less consideration for the feelings of Japan, and possibly containing a direct prohibition of the entry of Japanese into Australia." The view of Lord Hopetoun, the Governor-General, was that "the feeling in Australia against the unrestricted entry into the Commonwealth of large numbers of foreigners, and more especially of large numbers of Asiatics, is so intense that I cannot blame my Government for having introduced a measure of this kind," and Sir E. Barton, on being consulted when in England in the summer of 1902, stated that in the present temper of the

"West  
Australian",  
May 1.

C.O. print,  
Dominions,  
No. 3.

44750/01, Secret.



Australian people it would be useless to attempt any amendment of the Act.

The Commonwealth Postal Act of 1901 (sec. 16) called forth a protest from the Chambers of Commerce of Bengal and Bombay, which was supported by the Government of India, and led to correspondence between the India Office and the Colonial Office. The wording is: "No contract or arrangement for the carriage of mails shall be entered into on behalf of the Commonwealth unless it contains a condition that only white labour shall be employed in such carriage." Mr. Chamberlain, in April, 1902, held that though the policy embodied in this clause was one to which the Imperial Government could not subscribe, "it is clearly a matter in which the Commonwealth Parliament is within its right, and the mere fact that it may result in inconvenience to His Majesty's Government or other parts of the Empire cannot be regarded as a sufficient reason for the exercise of the power of disallowance." Later, in a despatch of 17 April, 1903, to the Governor-General of Australia, which was laid before Parliament, he expressed his views with regard to this policy as follows:—

5. His Majesty's Government much regret that the legislation which has recently been passed in Australia has made it impossible for them to be associated in future with the Government of the Commonwealth in any mail contract. They recognise the importance to the cause of Imperial unity of joint action in such matters as postal communication between the Mother Country and the great self-governing Colonies, and they would not on slight grounds withdraw from such co-operation, but the legislation in question, affecting as it does principally Indian subjects of His Majesty, leaves no other course open to them. By the Mutiny Proclamation of 1858 the Crown declared itself bound to the natives of its Indian territories by the same obligations of duty which binds it to all its other subjects, and undertook faithfully and conscientiously to fulfil those obligations. It would not be consistent with that undertaking for His Majesty's Government to become parties to a contract in which the employment of His Majesty's Indian subjects is in terms forbidden, on the ground of colour only. His Majesty's Government have shown every sympathy with the efforts of the people of Australia to deal with the problem of immigration, but they have always objected, both as regards aliens and as regards British subjects, to specific legislative discrimination in favour of, or against, race and colour, and that objection applies with even greater force to the present case, in which the question is not of the rights of the white population of Australia as against an influx of foreign immigrants, but merely of the employment of His Majesty's Indian subjects on a contract to be mainly performed in tropical or sub-tropical waters.

6. Even if the service were one upon which His Majesty's Indian subjects had not hitherto been employed, it would destroy the faith of the people of India in the sanctity of the obligations undertaken towards them by the Crown if the Imperial Government should become in any degree whatever parties to a policy of excluding them from it solely on the ground of colour. But where they have already been employed in the service for a long period of years, to proscribe them from it now would be to produce justifiable discontent among a large portion of His Majesty's subjects,

The Commonwealth Postal Act of 1901. Colonial Office paper, Miscellaneous, No. 195, confidential, pp. 140-150.

Australian Mail Service despatch to the Governor-General of Australia relating to the exclusive employment of white labour. Cd. 1639, June 1903.

His Majesty's Government deeply regret that their feeling of obligation in this matter is not shared by the Parliament of the Commonwealth, and that in regard to a matter which cannot affect the conditions of employment in Australia, and in no way affects that purity of race which the people of Australia justly value, they should have considered it desirable to dissociate themselves so completely from the obligations and policy of the Empire.

Miscellaneous, No. 195, as above.

The subject came up again in 1906-7 in connection with a Bill passed by the Commonwealth Parliament entitled "The Customs Tariff (British Preference), 1906" Bill, which restricted preferential treatment of British goods to such goods only as should be imported in British ships manned exclusively by white seamen. The Bill was reserved, because it ran counter to treaty rights of national treatment of shipping possessed by various foreign powers, and was allowed to drop.

Queensland and Japanese Immigration.

Parliamentary Print on admission of Japanese into Queensland laid before the Legislative Assembly of Queensland 1899, A. 5.

The Commonwealth Government also became concerned with the relations which Queensland had entered into with Japan, prior to the federation of the Australian Colonies or States. Queensland has had the most practical concern with coloured immigration. The treaty of commerce and navigation between Great Britain and Japan, signed on 16th July, 1894, and ratified on 25th August, 1894, provides in Articles 1 and 3 that the subjects of the two contracting parties shall have full liberty to enter, travel, reside and trade in each other's possessions. It was provided in the treaty that it should not be applicable to India or to the self-governing dominions unless notice was given that they wished to adhere within two years from the date of ratification of the Treaty. Although the two years had expired, Queensland adhered to the Treaty by a Protocol which was signed on 16th of March, 1897, and which provided:—

(I.) "That the stipulations contained in the first and third articles of the above-named Treaty shall not in any way affect the laws, ordinances and regulations with regard to trade, the immigration of labourers and artisans, police and public security which are in force or may hereafter be enacted in Japan or in the said colony of Queensland.

(II.) "That the said treaty shall cease to be binding as between Japan and the said Colony of Queensland at the expiration of 12 months after notice shall have been given on either side of a desire to terminate the same."

The number of Japanese immigrants into Queensland increased, and there resulted in 1898 and 1899 a correspondence between the Chief Secretary of Queensland and the Japanese Consul at Townsville in which, *inter alia*, the Queensland minister considered it "superfluous to again enumerate the reasons which render it

Print as above and 38036/00, Queensland.



desirable that no undue proportion of people of Asiatic race should permanently settle on this continent," while the Japanese Consul pointed out that the Japanese as a rule did not come to settle but only to engage for two or three years in employment such as pearl fishing and tropical agriculture, which was usually considered unsuited for European labour. Moreover, he took occasion to remark "that it is not agreeable to the Japanese Government to see their subjects included in the general category of Asiatic races, without any consideration being paid to their state of civilization." Eventually the Japanese made the proposal that the existing number of Japanese labourers in the Colony should be taken as the limit up to which, but not beyond which, immigration might take place. This the Queensland Government accepted in October, 1900, in the following words: "to take the actual number of Japanese in Queensland as the limit of their introduction into the Colony, and to allow any decrease, from whatever cause, to be filled up by replacement, whether by fresh Japanese emigrants or by the return to Queensland of such as may have gone back for a time to their country. In order, however, to prevent any undue influx of Japanese subjects at any given time, the Government would stipulate as a condition of their acceptance of the suggested compromise that no more than 25 Japanese immigrants should be embarked in or should be allowed to land in Queensland from any one vessel."

In 1901 the Commonwealth passed their Immigration Act, the provisions of which, or the action taken under them, came into conflict with this agreement between Queensland and Japan. The Attorney-General of the Commonwealth held that the Treaty of 1894 with Japan, to which Queensland adhered in 1897, was terminated as regards the admission of Queensland by the entry of the latter State into the Commonwealth. He also held that for the same reason the agreement of 1900 between Queensland and Japan was terminated. The question of the 1900 agreement was set at rest by the action of the Japanese themselves. The Japanese Government intimated that they did not consider the agreement of 1900 as having the character of a treaty, and that they would consider the understanding to have terminated, provided that the existing holders of Japanese passports entitling them to emigrate to Queensland should not have applied to them the education test provided by the Commonwealth Immigration Restriction Act. To this the Commonwealth Government agreed. On the wider question the Imperial Law Officers of the Crown advised that the treaty of 1894 was not affected as regards Queensland by the entry of Queensland into the Commonwealth, and that, though the Immigration Restriction Act to some extent conflicted with the provisions of the

treaty, the Act might in practice be administered so as not to cause any sensible conflict with the treaty. Finally the Commonwealth Government, with the approval of the Queensland Government, have decided to terminate on notice the Japanese treaty so far as it relates to Queensland.

State Acts  
against Asiatics.

In 1903, Indian and Afghan residents in Western Australia petitioned to the Government of India against disqualifications alleged to have been placed upon them by certain Commonwealth Acts. In forwarding the petition the Indian Government wrote that "In Australia the number of Indian emigrants is comparatively small, so that the matter is not of the same importance from our point of view as in South Africa." The complaints were as a whole not substantiated, the most substantial grievance being not against the Commonwealth but against the State Government of Western Australia for refusing to grant miners' rights to Asiatics.

In spite of her relations with Japan, Queensland passed a bill "To amend the Sugar Works Guarantee Acts 1893-5" with an anti-Asiatic section against which the Japanese Government protested. The protest called forth Mr. Chamberlain's despatch to Queensland of 14th May, 1901, to which reference has already been made (p. 21).

In a later case, that of the 1904 Agricultural Bank Amendment Act, the Queensland Government complied with the Secretary of State's wish not to differentiate by name against Asiatics by passing in the following year an amending Act which extended to all aliens the provision that no advances should be made to Aboriginal natives of Asia, Africa, or the Pacific Islands, and in 1907 they expressed themselves as anxious in any anti-Asiatic legislation to frame the legislation in such a manner as to meet the views of His Majesty's Government.

11675/07,  
W. Australia.

Reference has been made above to the Western Australia Factories Act of 1904. This was only one of various State Acts throughout Australia which expressly differentiated against Asiatics. On the 9th of July, 1907, Lord Elgin wrote to Western Australia on the subject of this Act. He asked whether the State Government would amend it "by omitting the express references to Asiatic races therein contained." He pointed out that "His Majesty's Government claim no right and have no desire to question the settled policy of the people of Australia, seeking as it does to prevent the growth of any racial difficulties in the Commonwealth. They appreciate the grounds on which this policy rests, and they sympathise with its aim. Further, they raise no objection to the adoption, in furtherance of that policy, of legislation aiming at the exclusion of Asiatics or coloured persons from Australia. But, as trustees for the safety and credit of the Empire, they feel entitled to suggest that in the choice of methods calculated



to promote the "White Australia" policy, Ministers should as far as possible avoid such as must naturally tend to bring about difficulties with foreign governments, and cause needless irritation to friendly powers, or indeed throw a stigma upon people of any race on grounds of colour alone. If such a policy commends itself to your Ministers, His Majesty's Government earnestly trust that the form adopted may be that of a restriction of those rights to persons who pass an educational test, thus obviating any appearance of discourtesy to subjects of Asiatic Powers or to His Majesty's British Indian subjects." No answer was sent to this despatch, and in 1907 the Parliament of the State restricted the franchise for the Legislative Assembly by excluding all Asiatics. For, whereas hitherto the franchise had been open to those holding land in freehold, the special franchise for landholders was abolished, with the result that no Asiatic can have a vote for the Assembly. After full consideration, in the absence of any protest from the Indians in the State or from the Indian Government, it was decided to take no action in the matter.

On the same day Lord Elgin wrote in almost the same terms to South Australia, inviting the amendment of certain Acts by making them "apply to all aliens without discrimination of race." He pointed out that the Queensland Government had complied with a similar request in the case of the Agricultural Bank Act Amendment Act of 1904. The South Australian Government, through their Prime Minister, Mr. Price, replied setting out the various amendments which would have to be made in the various Acts in order to comply with the Secretary of State's wish; and, while appreciating the weight of his arguments, they pointed out "that the difficulties with which they have to contend are peculiarly connected with Asiatics, and it is not desired to extend disabilities beyond the aliens particularly mentioned in the Acts." Upon this it was decided without withdrawing the objections to the policy embodied in the Acts, to let the two years within which disallowance of the only Act which could still be disallowed would have had to be signified run out and thus to allow the Act to stand.

#### 1900-1908.—NEW ZEALAND.

It has been seen that in 1899 New Zealand passed a "Natal" Act, which did not apply to the case of Chinese, and that in 1907 another Act was passed applying the language test to Chinese. A large number of Chinese residents petitioned against the 1907 Act on the ground of the unfairness of subjecting Chinese immigrants both to the poll tax and to the language test, of the intention of the Act to exclude Chinese immigrants entirely from New Zealand, of the unfriendliness of legislating solely against

41908/07, South  
Australia.

persons of Chinese race, and of the absence of any provision in the Act safeguarding the re-entry into New Zealand of existing Chinese residents. The Prime Minister of New Zealand urged with regard to this petition that the matter was one entirely within the discretion of the New Zealand Parliament, and the Secretary of State answered the petition in that sense in May, 1908, laying down that "the question of the immigration of aliens into the Dominion is one which must be determined according to the will of the Parliament and people of New Zealand," and adding that he was confident that all just relief would be given to Chinese residents paying temporary visits abroad on their return to New Zealand. Writing in January, 1908, the Governor said: "There is no doubt that the feeling against the Chinese in this Dominion is strong, and likely to give the Imperial authorities trouble in the future." He also reported in the same despatch that the Factories Act Amendment Act of 1907 had contained anti-Asiatic and anti-Chinese clauses, which were struck out after he had received protests from the solicitors for the Chinese, and had in consequence intimated to his Ministers that the Bill would have to be reserved.

#### 1900-1908.—CANADA.

Royal Commission of 1900 on Chinese and Japanese immigration.

Report of Royal Commission XII.-XIII.

p. 279.

The Royal Commission, appointed in 1900 by the Canadian Government to report upon Chinese and Japanese immigration into British Columbia, consisted of two Commissioners from British Columbia and one from Toronto. They were appointed to consider the representations on the subject made by British Columbia, among them the Resolution of the Legislative Assembly "expressing the opinion that the only effective mode of dealing with the question of restricting Mongolian immigration into Canada would be by either increasing the amount of per capita tax to the sum of \$500 or by the passing of an Act based on the lines of the Natal Act known as the Immigration Restriction Act of 1897." The Commissioners were to make "a full report so that the views of the people of British Columbia might be placed before the Imperial authorities." The report, which was made in February, 1902, dealt separately with Chinese and Japanese immigration. As to Chinese immigration the Commissioners found that the representations of the people and Legislature of British Columbia were substantially true and urgently called for a remedy. "That the further immigration of Chinese labourers into Canada ought to be prohibited. That the most desirable and effective means of attaining this end is by treaty supported by suitable legislation: that in the meantime and until this can be obtained the capitation tax should be raised to \$500." They agreed with the view taken in British Columbia "that it is in the interests of the Empire that



the Pacific province of the Dominion should be occupied by a large and thoroughly British population rather than by one in which the number of aliens would form a large proportion." They argued that "Whatever permanently weakens British Columbia weakens the Dominion and the Empire."

With regard to the Japanese, the Commissioners reported that "the consensus of opinion of the people of British Columbia is that they do not and cannot assimilate with white people, and that while in some respects they are less undesirable than the Chinese, in that they adopt more readily our habits of life and spend more of their earnings in the country, yet in all that goes to make for the permanent settlement of the country they are quite as serious a menace as the Chinese, and as they have more energy, push, and independence, more dangerous in this regard than the Chinese." The Commissioners then referred to the friendly and opportune action of the Japanese Government in having prohibited as from 1st August, 1900, emigration from Japan to British Columbia, by stopping the issue of passports under a provision of the Japanese Immigration Protection Law of 1896, and they added "Nothing further is needed to settle this most difficult question upon a firm basis than some assurance that the action already taken by the Government of Japan will not be revoked. . . . Should, however, a change of policy be adopted in this regard by the Japanese Government, whereby Japanese labourers may again be permitted to emigrate to Canada, the welfare of the Province of British Columbia imperatively demands that effective measures be adopted to take the place of the inhibition now imposed by the Japanese Government. Your Commissioners recommend that in that event, an Act be passed by the Dominion Government on the lines of what is known as the Natal Act, made sufficiently stringent and effective to accomplish the desired result."

The outcome of this report was that the Dominion Parliament passed the Chinese Immigration Act of 1903 "respecting and restricting Chinese immigration," the main feature of which was that the tax on entry into Canada of "every person of Chinese origin, irrespective of allegiance," with specified exceptions, was in accordance with the recommendation of the Commission raised from \$100 to \$500. No law was passed or action taken against Japanese immigration in view of the restriction placed upon it by the Japanese Government. The introduction of this Bill into the Dominion Parliament led to a protest from the Chinese Board of Trade at Victoria, British Columbia, who were informed that His Majesty's Government could not interfere in the matter with the discretion of the Canadian Parliament, and from the Chinese Minister in England, who protested

p. 397.

Action of the  
Japanese  
Government.

pp. 399-400.

The Chinese  
Immigration  
Act of 1903.

against the different treatment meted out to Chinese and to Japanese. The answer made to this was that as the Government of Japan had prohibited emigration to Canada, there was no need to legislate against Japanese. The Chinese Minister, notwithstanding, still protested without effect, stating that "though the poll-tax of \$500 which it imposes on 'persons of Chinese origin,' and on them only, is grievously oppressive, it is not so much the tax as the invidious character of the legislation to which the Chinese Government take exception, as being offensive to their susceptibilities, which in the case of another Asiatic nation His Majesty's Government have acknowledged to be just." It may be noted that Mr. Chamberlain informed the Foreign Office in the course of the correspondence that one reason for discouraging, if not absolutely prohibiting, further Chinese immigration into Canada was that such action would promote satisfactory relations between Canada and the United States, as constant complaints had been made by the United States Authorities that Chinese came in to the Republic *via* Canada. In 1906, as the result of a petition which he had received from Chinese residents in Canada, the then Chinese Minister again protested against the poll-tax. He urged the repeal of the tax "which being altogether opposed to the spirit of international comity is highly offensive to the susceptibilities of China." The answer given was that any interference by His Majesty's Government "would only aggravate the situation and might hasten the demand for total prohibition." Further legislation on Chinese immigration into Canada has recently taken place, but the only important alteration is the concession that students after one year's residence can obtain a refund of the capitation tax enacted on entrance. A recent confidential report from Vancouver shows that, Chinese immigration having recently increased, the local Chinese Board of Trade at that port has issued warnings to be circulated at Hong Kong and at the Treaty ports in China.

The result of the Act of 1903 and of the prohibition of emigration to Canada by the Japanese Government was that between 1903 and 1907 little was heard of Oriental immigration into Canada. According to the receipts from the tax Chinese immigration up to 1907 was hardly perceptible. Between 1901 and the beginning of 1907 the Japanese immigrants seem not to have exceeded 3,000. Meanwhile by a Convention dated 31st January, 1906, the Canadian Government adhered to the Anglo-Japanese Treaty of 1894 unconditionally and without any such reservations as Queensland had made. The treaty was ratified on 12th July, 1906, and confirmed by an Act of the Dominion Parliament 6 and 7 Ed. VII., cap. 50.

See Debate in  
Dominion Par-  
liament, 16 Dec.,  
1907.Mr. Mackenzie  
King's report  
on the methods  
by which  
Oriental  
labourers have  
been induced to  
come to Canada.  
p. 8.Adhesion of  
Canada to the  
Anglo-Japanese  
Treaty of 1894.



In 1906 the Dominion Parliament passed a general Immigration Act; and as consolidated with the 1903 Act, in chapter 93 of the Consolidated Statutes, the 30th Section provided as follows:—"The Governor in Council may by proclamation or order, whenever he considers it necessary or expedient, prohibit the landing in Canada of any specified class of immigrants, of which due notice shall be given to the transportation companies. (2) The Governor in Council may make such regulations as are necessary to prohibit the entry into Canada of any greater number of persons from any foreign country than the laws of such country permit to emigrate to Canada." In 1908 an Act was passed substituting for the first part of this section the following words: "The Governor in Council may by proclamation or order, whenever he considers it necessary or expedient, prohibit the landing in Canada of any specified class of immigrants or of any immigrants who being natives or citizens of any specified country have come to Canada otherwise than by a continuous journey from that country on through tickets purchased there." In 1906 also an Alien Labour Act was passed restricting the importation of labour under contract.

Immigration  
Act of 1906.

Alien Labour  
Act.

In 1907 there was a great influx of Japanese immigrants into Canada which led to the anti-Asiatic riots in Vancouver in September of that year. Mr. Mackenzie King, who was appointed in November, 1907, to enquire into the methods by which Oriental labourers had been induced to come to Canada in the past year, reported that during the first ten months of 1907 8,125 Japanese had arrived at Canadian ports, of whom 77 had been rejected, 3,619 or 45 per cent. had passports for and were admitted to the United States, while 4,429 remained in Canada. Of these 4,429, 1,641 had come direct from Japan and 2,779 from Hawaii. The cause of the immigration was the development of British Columbia and the construction of new railways in the province, leading to a demand for additional labour, industrial and agricultural. This coincided with an attempt on the part of the planters in Hawaii to introduce Portuguese labour with a view to reducing the rate of wages, with the result that the Japanese labourers working in Hawaii left for Canada. Of the 1,641 labourers who came direct from Japan 900 were sent by the Tokyo Emigration Company at Yokohama at the instance of the Canadian Nippon Supply Company. This latter Company was formed at the end of 1906 and opened an office in Japan as well as in Vancouver. Whether through their influence or from some other cause, the Japanese Government was in April, 1907, induced to modify its prohibition of emigration to Canada by allowing labourers to be sent through emigration societies, on the production of duplicates of *bona fide* agreements with responsible employers

Japanese immigration in 1907.  
Mr. Mackenzie King's Report as above, pp. 9-11.

of labour in Canada, the *bona fides* of which was certified by the Japanese Consuls in Canada. The conclusion at which Mr. Mackenzie King arrived was that if Japanese immigration from Hawaii and all other points beyond the jurisdiction of Japan was absolutely prohibited, and also immigration of contract labour from Japan, the amount of Japanese immigration into Canada would not be likely to cause serious embarrassment. The difficulty and danger of the question arose largely from the fact that the labour unions of the Pacific Coast, whether American or Canadian, were all in league and directed from San Francisco.

Mr. Lemieux's mission to Japan and agreement between the Canadian and Japanese Governments.

At the end of October the Dominion Government sent Mr. Lemieux, Postmaster General and Minister for Labour, and Mr. Pope, Under Secretary of State, to Japan. The result of the Mission was an agreement between the Japanese and Canadian Governments signed in January, 1908, to the effect that the only emigrants who would be allowed to go from Japan to Canada must belong to the following classes.

- (i.) Resident Japanese returning to Canada for the second time.
- (ii.) *Bona fide* domestics for resident Japanese only.
- (iii.) Emigrants brought in under contract approved in each case by the Dominion Government.
- (iv.) Agricultural labourers for work on farms owned by Japanese, not exceeding 5 to 10 labourers per hundred acres.

The Japanese Government also gave a confidential assurance that they did not contemplate "that under existing circumstances the number of emigrants who will go to Canada as household servants and agricultural labourers will exceed 400 annually." It is noteworthy how in this matter the Canadian Government dealt directly with the Japanese Government, though Sir Claude MacDonald was associated in the negotiations with Mr. Lemieux. When the Vancouver riots occurred, Sir W. Laurier, with the approval of the Governor-General and the Secretary of State, wrote personally a letter of friendship and reassurance to Sir Claude MacDonald for communication to the Japanese Government. Mr. Lemieux was the protagonist in the negotiations, though the concessions made by Japan were largely induced by the representations of H.M. Government, and latterly an officer of the Canadian immigration department has been appointed temporarily to reside in Japan, though he is not authorised to communicate with the Japanese officials except through the British Ambassador.

The British Columbia Legislature had in the meantime passed, in 1907, a Natal Act, with a stringent writing and reading test which, if it



had not been misworded by the omission of 'not' in the operative clause, would have entirely excluded the Japanese. This Act was disallowed. It was re-enacted by the provincial Legislature in 1908, but the Courts of British Columbia held that it was invalid as contravening the Japanese Treaty and the Dominion Act which sanctioned that treaty. The question then arose whether, though the Act did not apply to the Japanese, it applied to other Orientals, in which case Japanese would have been in a better position than British Indians. This difficulty has been met by the Courts laying down that the Act conflicts with the Dominion Immigration Act, and that the latter must prevail. It may, however, be noted that the feeling arising out of the Act has culminated in the resignation of the Lieutenant-Governor of British Columbia.

At the time of the Vancouver riots, in September, 1907, it was reported that a number of Hindus against whom there had been an outbreak at factories in the State of Washington would take refuge in Canada. At the same time a steamship arrived at Vancouver with 900 Hindus on board. This East Indian immigration, according to a subsequent report by Mr. Mackenzie King, was due to exaggerated advertisements in India of the prospects offered by British Columbia, to the work of steamship agencies, and to Indians already in British Columbia who tried to exploit their fellow subjects. Sixteen hundred British Indians seem to have reached Vancouver in July and August, 1907, nearly all coming via Hong Kong, and in the ships of the Canadian Pacific Company. It was gathered from conversations with the immigrants that the first of them came in induced by representations of agents of the Canadian Pacific Company as to work and wages in British Columbia, and that these first immigrants, finding the conditions as represented, induced others to come.

The fact of so many Japanese having come in from Hawaii, and Indians from Hong-Kong, led to the issue of an Order in Council by the Canadian Government at the beginning of January, 1908, prohibiting, during the continuance of the existing conditions of the Canadian labour market, the landing of immigrants unless they came from the country of birth or citizenship by continuous journey and on through tickets purchased before starting. This order was subsequently embodied in the Act which has been noted above (p. 40). The Indian Government had already been invited in the previous November, at the instance of the Dominion Government, to take some such steps as the Japanese Government had taken to restrict immigration, such as initiating a passport system for immigrants. They declined, however, to take any measures of the kind, their telegram of 22nd January,

Hindu immigration into British Columbia.

Printed for the Dominion Parliament, 1908.

1908, being to the effect that "we must leave it to the Canadian Government to take such measures as may be necessary to restrain immigration into its territories. Should that government think fit to legislate so as to require certain qualifications such as physical fitness to be determined by medical examination on landing, we will make every endeavour to make legislation widely known, but we trust that no express discrimination will be made against British Indians." In communicating this telegram to Canada in February, Lord Elgin associated himself in the hope that express discrimination would not be made against British Indians, and asked that any final proposals for restricting immigration might, before being brought into force, be shown to the Government of India.

Mr. Mackenzie King's report.

The Canadian Government thereupon at the beginning of March decided to send Mr. Mackenzie King, deputy Minister of Labour, to England to confer with the Secretaries of State. Mr. King had been dealing with the coloured immigration question both at Vancouver and at Washington. He was commissioned "to confer with the British authorities on the subject of immigration from the Orient and the immigration from India in particular." He arrived in England in the middle of March and left in the middle of April. He reported to his Government on the 2nd of May, supplementing the report by a confidential memorandum. In his report he showed that the causes of the Indian immigration had been counteracted by warnings issued by the government of India, by cautions to the steamship companies, by the prohibition of immigration except by a continuous journey and on a through ticket, and by the Indian Emigration Act of 1883 under which contract immigration into Canada could be made impossible. He added that "the regulation at present in force, requiring all immigrants to have in their possession a sum of at least \$25 constitutes a requirement which for the protection of the Indians themselves is an obvious necessity. Should this amount prove inadequate, it could be increased."

pp. 8-9

The regulation referred to by Mr. King was made by the Dominion Government at the end of 1907 and confirmed by an Order in Council issued by that Government on the 18th of January, 1908, under the Immigration Act of 1906. It was to the effect that all immigrants landing in Canada before the 15th of February, 1908, must show that they had fifty dollars in their possession, and between the 15th of February and the 1st of April 25 dollars, in addition to the cost of their travelling inland, unless they could show that they were going to assured employment or would be cared for by friends. On the 27th of March the operation of this Order was extended to the end of the current year. On the 3rd of June, 1908, the Canadian Government determined to increase the amount, in the case of East Indians, to 200

Canadian regulation with regard to East Indian immigrants.

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dollars, the Order in Council being worded as follows:—

"Whereas by the Order in Council of the 18th January, 1908, it is provided that in accordance with section 20 of the Immigration Act, the Immigration Agent at any port shall require every immigrant, male or female, eighteen years of age or over, to have in his or her possession money to a minimum amount of twenty-five dollars, in addition to a ticket to his or her destination in Canada, unless satisfactory evidence is furnished that the immigrant is going to some definite employment or to relatives or friends already settled in Canada, who will take care of such immigrant, and by a further Order in Council of the 27th March, 1908, this arrangement is continued in force:

And whereas Canada is looking primarily for immigrants of an agricultural class to occupy vacant lands, and as immigrants from Asia belong as a rule to labouring classes, and their language and mode of life render them unsuited for settlement in Canada, where there are no colonies of their own people to ensure their maintenance in case of their inability to secure employment, it is necessary that provision be made so that such immigrants may be possessed of sufficient money to make them temporarily independent of unfavourable industrial conditions when coming into Canada:

Therefore His Excellency the Governor-General in Council is pleased to order that the amount of money required to be in possession of each immigrant as a condition to his being permitted to enter Canada shall be and the same is hereby increased to Two Hundred Dollars in the case of all Asiatic immigrants other than those with whose countries the Government of Canada has special arrangements or those concerning whose countries special statutory regulations exist on the part of Canada; the conditions as to tickets to destination to remain as at present."

Thus Japanese immigration is restricted by mutual agreement between the Governments of Japan and Canada, and by the requirement that immigrants must come direct from Japan, Chinese immigration by the Act imposing an entry tax of 500 dollars, and British Indian immigration by the requirement that immigrants shall come direct from India and be in possession of 200 dollars.

#### NEWFOUNDLAND.

Newfoundland in 1906 passed a Chinese Immigration Act, which was slightly amended in 1907. Under its provisions "every person of Chinese origin, irrespective of allegiance," with specified exceptions, has to pay on entry into the Colony 300 dollars, and no vessel carrying Chinese to a Newfoundland port is allowed to carry more than one to every 50 tons of its tonnage.

#### 1900-1908—SOUTH AFRICA.

In 1902 the Cape passed an Immigration Act <sup>The Cape.</sup> on the same lines as the Natal Act. The same title was given to it as was given to the Commonwealth 1901 Act, and the education test was worded as follows: "Prohibited emigrants shall mean and include the following persons (a) any person who when asked to do so by any duly

authorised officer, shall be unable through deficient education to himself write out and sign in the characters of an European language an application to the satisfaction of the Minister." This wording, with the substitution of "some European language" for "any European language" was adopted by the Natal Legislature, when they passed the amending Ordinance in 1903, to which reference has already been made. In 1906 the Cape Legislature repealed the 1902 Act, and replaced it by an amending Act, in which to the words quoted above was added the proviso "provided that for the purposes of this subsection Yiddish shall be accepted as a European language." Meanwhile the introduction of Chinese labour into the Transvaal in 1904 led to the passing in the Cape Colony in that year of an Act "to prevent the introduction of Chinese into the Cape Colony." By this Act the entry of Chinamen into the Colony and their residence in it was prohibited except under a certificate of exemption granted by the Governor on evidence that the applicant was either a British subject by birth or a holder of a certificate of naturalisation in the Colony. All the Chinese in the Colony at the date of the Act were to be registered and granted certificates of exemption from the provisions of the Act. This Act was amended in 1906, the amending Act providing that a holder of a certificate of exemption may be granted a permit "to visit China or other Eastern country from which he may originally have come" and to re-enter the Colony. The report of the Chief Immigration Officer at the Cape for 1907 gives the following statistics of prohibited immigrants:—

	Total prohibited	of whom	Prohibited for illiteracy.
1904 .....	481	.....	167
1905 .....	783	.....	85
1906 .....	709	.....	129
1907 .....	221	.....	128

showing that the education test has not been a dead letter. Only four Chinese were prohibited under the exclusion Act in the four years. The number of Chinese in the Colony at the end of 1907 had fallen to 1,005, 400 of whom were at Port Elizabeth.

#### NATAL.

Mention has been made above of the Natal Act of 1903 "to place closer restrictions on immigration" which re-enacted and revised the famous Act of 1897. Natal did not follow the example of the Cape in passing an anti-Chinese Act, but latterly various measures have been directed by the colonial legislature against East Indians. The Dealers Licences Act of 1897 has, it is alleged by Indian petitioners, been used so as to exclude Indians, instructions having, it is



said, been given to the effect that applicants for new licences and renewals of old licences must personally be able to keep books of account in English. A Municipal Corporations Act was passed in 1905 which excluded from the municipal franchise all who under the Act of 1896, which has been noted above, were excluded from the Parliamentary franchise; and it also caused resentment in India by the wording of the following clause. "The term uncivilised races shall include all barbarous or semi-barbarous races, and all Indians introduced into this colony as indentured labourers, but who shall not at the time being be serving under such indenture or a renewal thereof, and their descendants; but shall not include mechanics, artisans, clerks, and other persons of a status above that of labourers or domestic servants." Exception was also taken to the vagueness of the definition of "coolie" contained in the Act. This Act, however, was reserved, and at the instance of the Secretary of State the Natal Government has consented to omit these provisions, so that East Indians will not be classed with uncivilised races and will not necessarily be excluded from the municipal franchise.

Three Bills are now before the Natal Legislature. One to prohibit the further introduction of indentured Indian labour as from 30th June, 1911, a second to forbid any licence to trade being given to an Indian after 31st December, 1908, and a third to provide for the extinction of all Indian licences to trade after 10 years.

The case of Natal is a noteworthy one in connection with East Indian immigration. The effect of East Indian immigration into black men's lands has in the main been largely to oust the black man in favour of the East Indian. This has been especially the case in the neighbouring colony of Mauritius, where the East Indians, who began coming in in 1834, now form over two-thirds of the population. There and in the West Indies, East Indians seem not only to be replacing black men but also to be to some extent, in planting and in commerce, successful rivals of the white men. This seems to be the case also in Natal. The result is that the one among the present self-governing colonies which has deliberately imported East Indians, is now not merely proposing to discontinue importation, but endeavouring to exclude from trade and from citizenship the resident East Indian population the existence of which is the direct result of Government action prolonged after the colony received self-government.

In commenting on the Bill "to put an end to the further introduction of Indian immigrants" the Governor, in a despatch already quoted (p. 16), writes that there are over 72,000 Indians "no longer under indenture who, by reason of their lower standard of living, are in a favourable position to compete with the

See India Office Memorandum, pages 16, 18 of Miscellaneous, No. 195, Confidential.

19766/08  
8th May 1908.

poorer classes of Europeans in fruit-growing, trading, &c. It is the fear of the growth of the number of these free Indians that has given rise to the movement which has produced the present Bill." Of the other two Bills "to bring to an end the issue of new trading licences to Indians" and "to prohibit after a certain time the holding of trading licences by Indians," he writes that the object "is first to check and then to stop the competition of free Indians with Europeans in one sphere of activity. It is evidently the intention to close all commercial pursuits in the colony to Indians. It is in these pursuits that Asiatic competition is most felt at the present time, but it is clear, from the publications of the labour organisations in the colony, that it is equally the intention of the white man to allow no competition by Indian artificers or tradesmen."

#### TRANSVAAL.

Chinese labour in the Transvaal.

In June, 1904, the first shipload of Chinese coolies arrived at Durban for work in the mines of the Rand. As the importation of Chinese labour was avowedly a temporary measure, the essence of which was repatriation, it is not necessary to make any further reference to it in this memorandum, beyond noting that it called forth protests from the Legislatures of the Commonwealth of Australia and of New Zealand, that it led to the passing of anti-Chinese Acts in the Cape Colony and Newfoundland, and that it undoubtedly strengthened the bias against coloured immigration in the self-governing dominions.

Cd. 2239/04,  
pp. 38-45.

Page 40.

In his despatch of 20th July, 1904, Mr. Lyttelton reviewed at length the Asiatic, i.e., the British Indian question, in the Transvaal, which had begun with the passing of the law of 1885, already noted. There was an award on the subject in April, 1895, and the position before the war is summed up in the words, "Up to the outbreak of the war, the British Government has steadily maintained, at first as a matter of right and subsequently to the award of 1895, by diplomatic persuasion, the interest of the British Indians resident in the Transvaal." In April, 1902, the new Crown Colony Government of the Transvaal made proposals which Mr. Chamberlain vetoed, on the ground that they would practically be a continuance of the system of the South African Republic against which the Imperial Government had repeatedly and strongly protested. The proposals were that all Asiatics then resident in or subsequently entering the Transvaal should, unless specially exempted, take out a certificate of registration to be annually renewed at a charge of £3; that registered Asiatics should be obliged to live and carry on their business in special quarters of the



towns; that certificates of registration should be refused to undesirables; that educated and civilized Asiatics should be exempted from registration; that Asiatics should be allowed to acquire real property, but—for five years—only in town areas. In April, 1903, the Transvaal Government issued a notice stating that the Government had resolved to set apart bazaars in the towns, in which alone Asiatics might reside and trade, but that educated and respectable Asiatics would be exempted from all special restrictions.

Almost simultaneously, in May, 1903, Lord Milner telegraphed expressing a desire to obtain 10,000 Indian coolies for work on the new railways in the Transvaal and Orange River Colony, on condition of their being compulsorily repatriated at the end of their term of service. He considered that the introduction of Indian labour for the purpose for which he wanted it "would greatly facilitate a reasonable settlement of the British-Indian question here, as it would tend to remove some of the intense local prejudice against Indians. At present we are in the absurd position of being flooded by petty Indian traders and hawkers, who are of no benefit whatever to the community, and not allowed to have Indian labourers whom we greatly need." Mr. Chamberlain informed him in reply that the Indian Government was not disposed to allow a large number of coolies to be introduced without certain stipulations for improving the position of Indian traders and the treatment of Indians generally in the Transvaal. Correspondence continued on the subject of the conditions upon which the Indian Government would allow coolies to be introduced. In February, 1904, Lord Milner reported that the Transvaal Government, in spite of popular opposition, proposed to meet the views of the Indian Government so far as to allow Indian traders who before the war had been carrying on business outside bazaars or locations to continue to do so, and, as the Indian Government suggested, to regulate fresh Indian immigration by a "Natal" Act, admitting Indian as well as European languages in the education test to be imposed under the Act. In the following April, however, Lord Milner telegraphed that this last proposal was withdrawn, as it would conflict with the principle of uniformity of legislation with regard to non-European persons which had been approved by the Colonial Conference at Bloemfontein. The Transvaal proposals, as finally formulated, included—

(i.) An immigration restriction law prescribing an education test, in which Indian languages would not be accepted.

(ii.) A law requiring all Asiatics entering the Transvaal, unless specially exempted, to take out a certificate of registration at a charge of £3, and providing that there should be special bazaars or locations in which all Asiatics should be required

Correspondence relating to a proposal to employ Indian coolies under indenture on railways in the Transvaal and the Orange River Colony. Cd. 1683/03.

Cd. 3308,  
pp. 4, 6, 7, 9.  
Cd. 3251.

Cd. 3308,  
pp. 58-9.

Cd. 3887, p. 9.

to live and trade, with the two following exceptions:—(1) That Asiatics living in accordance with European customs should be allowed to live but not to trade outside the specified areas; and (2) That Asiatics who before the war traded outside the areas should not be disturbed. To the first of these two proposed Ordinances, Mr. Lyttelton took no exception, but to the second he pointed out objections. Meanwhile, in view of the contemplated legislation, the scheme for importing East Indian workmen was abandoned.

Mr. Lyttelton's despatch, as has been stated, was written in July, 1904. In 1902, at the close of the war, and in 1903, Peace Preservation Acts had been passed in the Transvaal, introducing a system of permits for persons entering the Colony and designed to keep out undesirables. These Ordinances, though not specifically passed for the purpose, but intended to deal with the position which arose after the war, were used to prevent a further influx of Asiatics, but after a time it was found that the system was evaded, and in 1906 the Crown Colony Government passed an "Asiatic Law Amendment Ordinance," requiring the registration of resident Asiatics. This Ordinance was disallowed by Lord Elgin in November, 1906, the British Indians concerned, or some of them, considering it more onerous than the old law of 1885, which it largely superseded. Responsible government took effect immediately afterwards, and at the beginning of 1907 an Act was immediately and unanimously passed by the new Legislature in identical terms, which Lord Elgin accepted on the ground that His Majesty's Government "would not be justified in offering resistance to the general will of the Colony clearly expressed by its first elected representatives," although he placed on record "that His Majesty's Government do not consider the position of Asiatics lawfully resident in the Transvaal, as settled by this Act, to be satisfactory."

This Act, which labelled all the resident Asiatics in the Colony, and thereby facilitated prevention of any increase in their numbers, was supplemented by the Immigration Restriction Act of 1907, which repealed the Peace Preservation Ordinance and gave power to expel all Asiatics who had not secured a right under the Registration Act to be in the Colony. The Act is entitled "An Act to place restrictions on Immigration into this Colony, to provide for the removal therefrom of prohibited immigrants and other persons, and to establish and maintain an immigration department." It contains an education clause, for under its terms "prohibited immigrant" includes "any person who when asked whether within or outside this Colony by a duly authorised officer shall be unable through deficient education to write out (from



dictation or otherwise) and sign in the characters of an European language an application for permission to enter this Colony or such other document as such officer may require; provided that for the purposes of this subsection Yiddish shall be accepted as an European language." This clause is subject to any special arrangements which may be made with the Government of another country, and sanctioned by resolution of the Legislature. It also contains a clause 2 (4) under which a "prohibited immigrant" includes "any person who at the date of his entering or attempting to enter this colony is subject or would if he entered this colony be subject to the provisions of any law in force at such date which might render him liable either at such date or thereafter if found therein to be removed from or to be ordered to leave this colony whether on conviction of an offence against such law or for failure to comply with its provisions or otherwise in accordance with its provisions." Lord Elgin noted with regret that the Transvaal Government had not been content to rely on an education test for exclusion of undesirables, and that the practical effect of this section would be to exclude all Asiatics exclusive of their personal qualifications; but he accepted the provision in the hope that the exclusion of further Asiatic immigration would result in more favourable treatment of the Asiatics then lawfully resident in the colony. He asked however for a specific assurance that there was "no intention of refusing access as visitors to distinguished Indians and high officials of Asiatic descent." He took exception to another section of the act not specially aimed at Indians (Section 6 (b)), which gave power to arrest and remove from the Colony any person who "is deemed by the Minister on reasonable grounds to be dangerous to the peace, order and good government of this Colony if he remains therein," and he asked for an assurance that legislation would be introduced limiting this power to persons convicted of some offence, and that pending such legislation the power should not be exercised. The Transvaal Ministers gave the assurances required and the Act was not disallowed.

This Transvaal legislation and the rules made under it gave rise to great discontent among the Asiatics in the Transvaal, Chinese as well as British Indians, and the following passage in a petition from the Chairman of the Chinese Association of the Transvaal to the Chinese Minister in London with regard to the Asiatic Law Amendment Act is worth noticing. "It places Chinese subjects on the same level as British subjects coming from India. While it may be proper for the British Government to treat its Indian subjects as it pleases, your petitioner respectfully submits that subjects of the Chinese Empire should not be treated in a manner derogatory to the dignity of the Empire to which your Excellency's petitioner has the

Cd. 3887, p. 58.

Cd. 3887, p. 56.

honour to belong, especially in view of the fact that China is a State in alliance with Great Britain, and that the subjects of Great Britain receive the most favoured nation treatment in China."

The result of the measures taken is that Asiatic immigration into the Transvaal is effectively prohibited, while the attitude towards the Asiatics now in the Colony is illustrated by a Railway Regulation Bill at present before the Legislature prescribing separate railway accommodation for white and coloured persons.

#### ORANGE RIVER COLONY.

An Immigration Restriction Bill is now before the Legislature of the Orange River Colony framed on the same lines as the Transvaal legislation.

#### SOUTHERN RHODESIA.

In 1903 an Ordinance was passed in Southern Rhodesia to impose restrictions upon immigration, and to provide for the removal of prohibited immigrants. The Ordinance contained an Education test requiring knowledge of a European language, and it also contained a clause taken from a Cape Act differentiating in favour of European persons by exempting them from exclusion on production of a certificate such as would suffice to admit them into the Cape under the 1902 Immigration Act of that Colony. This clause which had ineffectually been objected to in the case of the Cape was, in the case of Southern Rhodesia, amended by order of the Secretary of State, the amendment being embodied in an Ordinance of 1904.

In 1908 a draft of a Bill was sent home based on the Transvaal law, and entitled "An Ordinance to restrict the immigration of Asiatics into this Territory, and to provide for the registration of such Asiatics as are already resident therein." To this Bill exception has been taken by the Secretary of State.

#### THE COLONIAL CONFERENCES OF 1902 AND 1907.

This question of coloured immigration into the self-governing Colonies was not raised at all at the Conference of 1902, although Mr. Chamberlain, who had taken it up so strongly in 1897 was still in office, nor does any paper on the subject appear to have been drawn up.

At the 1907 Conference the question was not discussed and was only raised incidentally in connection with the white labour clause in the

C.O. Paper,  
Miscellaneous,  
No. 144, Con-  
fidential.

See index to  
Cd. 3523.



Australian Preference Bill. A short memorandum and correspondence with the India Office and the Post Office on the subject were printed in connexion with the Conference but not circulated. The question of the employment of Lascars on vessels engaged in trading with Australia was, however, discussed at the Merchant Shipping Conference held simultaneously with the Colonial Conference, and the Australian and New Zealand representatives made it clear that the employment of Lascars in the Coasting Trade of those Colonies would not be permitted.

C.O. Paper.  
Miscellaneous.  
No. 195, Confidential.

Cd. 3567,  
pp. 108-16.

#### GENERAL SUMMARY.

The above is an outline of the evolution of this most difficult question of coloured immigration into the self-governing dominions.

On the part of the Dominions the record shows—

(i.) A constantly growing determination to exclude, as a settled policy, coloured, *i.e.*, Oriental immigrants.

(ii.) Little or no inclination to differentiate between coloured men who are British subjects and coloured men who are not.

(iii.) No great regard for the feelings and susceptibilities of the coloured races as regards methods of exclusion and terms of the excluding Acts and Regulations. The Natal Act, it is true, has been very generally adopted except in Canada, but it has been adopted rather under pressure, and side by side with it other Acts have been passed imposing disabilities in various directions, on coloured races and often specifying the races.

On the part of the Imperial Government the record shows—

(i.) A general sympathy with the determination to keep the self-governing Colonies for the white race, and

(ii.) A great reluctance to interfere in the matter on the ground that it is one for the Colonists to decide, but on the other hand

(iii.) Constant pressure to try and obtain good treatment for the East Indians as being British subjects, and in other cases to safeguard treaty rights, and to ensure that a policy of exclusion shall be pursued without specifying particular peoples and wounding their self respect.

It is, I think, noteworthy that Mr. Chamberlain, who was in full sympathy with the self-governing communities, was especially outspoken in protesting against giving offence in the methods of exclusion and against harsh treatment of coloured British subjects, but it will be noted at the same time that the object of avoiding offence in methods of exclusion,

mitigates against giving any preference to British subjects. The principle of the Natal Act, which Mr. Chamberlain accepted and recommended, is not to specify any particular race, but to exclude all who cannot write a European language, *i.e.*, not to distinguish in any way among non-Europeans between those who are and those who are not British subjects.

The record shows, too, that the more the subject has been left to the Federal Governments as opposed to State or Provincial governments, the broader and more sensible on the whole has been its treatment. This has been conspicuously the case in the attitude and dealings of the Dominion of Canada as opposed to those of British Columbia, and a good illustration of the same fact is given by a comparison of a Queensland Old Age Pensions Act which has just been passed in April, 1908, with an Old Age Pensions Act of the Commonwealth Government which has also just been passed. The Queensland Act excludes wholesale, "Chinese or other Asiatics, whether British subjects or naturalised, or not." The Commonwealth Act excludes Asiatics unless born in Australia. In the event of any future federation, it would be of great advantage to reserve for the federal legislature every possible question affecting distinctions of race.

It may be summed up—

(1) That contrary to what might have been hoped and expected, and undoubtedly was hoped and expected half a century ago, the growth of democracy and science and education has not diminished but increased antipathies of race and colour. It has done so for various reasons.

(a) Science has made coming and going easier. Immigration, if regarded as a danger, is a much more present and practical evil than it was.

(b) Coloured immigrants do not to any serious extent compete with white capitalists; but they do compete to a considerable extent with white petty traders, and still more with white workmen. In proportion as the power passes into the hands of labour, in the same proportion the tendency to exclude coloured labour increases.

(c) On the other side the coloured men are becoming educated and taking their rightful place, with the result that resentment increases among them (1) at being treated as inferiors to the white; (2) at differential treatment of one coloured race as compared with another, *e.g.*, of better treatment of the Japanese than of the Chinese.

(d) The rise of Japan has given the Eastern races a new status which has been won by force and not conceded as a matter of grace.

It is possible that as the white population grows in the Dominions, the sense of strength



may produce more liberal treatment of the coloured races ; but so far there is no evidence of this even in the United States, with all their immense preponderance of white citizens. As far as can be judged, this policy of excluding the coloured races has come to stay and to grow. It derives its strength from being based on a natural antagonism, from receiving the solid support of all the working classes, and from being presented, with a strong element of truth, as conducive to the interests of the Empire through maintaining the purity of the race.

The danger of it is obvious. We may conceivably have to choose between our self-governing Dominions and the Japanese alliance ; we may conceivably have to choose at some future date between India and the self-governing Dominions ; and the matter is now, and will always be, one which may give cause or pretext for complaints against us by the United States, and for attempts at interference on the part of the United States in our relations with the Dominions.

In another memorandum some suggestions which have been made on the subject are very briefly considered.

C. P. L.

July, 1908.



## Dominions

## No. 2.

Very Confidential.

Suggestions as to Coloured Immigration into the Self-Governing Dominions.

The parties concerned with this question are His Majesty's Government, the Self-Governing Dominions, India, and, among foreign countries as far as we are concerned, on the white side—the United States, on the coloured side—China and Japan. Of His Majesty's Government, three Offices are concerned—Foreign, India, Colonial. Mr. Mackenzie King discussed the question with the three Secretaries of State.

Various suggestions have been made in the matter, either as to the methods of dealing with it, or as to the general policy.

The first questions to be asked are (I) whether any initiative can be or ought to be taken from here (II) whether any general policy is possible.

(I) The question was practically shelved at the last two Colonial Conferences, presumably as being an awkward question which divides us most. It is a question which we recognise is essentially a matter within the competence of the Colonial Governments, and on which they know their own minds and are determined to have their own way. It is a question, therefore, which we do not want to raise if we can avoid it, and on which it may be argued that initiative by the Imperial Government cannot do good and may do harm. We know what we think, we know what the Dominion Governments and what the Indian Government, and, to some extent at any rate, what the Foreign Governments, think. We have, it may be said, most, if not all, of the data required for forming a right estimate. It may well be argued that we should do nothing until we are forced to do so.

On the other hand, this is one of the questions on which we are expected either to do something, or to be prepared to do something, or at any rate to give a most reasoned case for not attempting to do something. It is a question which is perpetually becoming acute: it is a question second to none in difficulty and importance. I do not



feel sure that in cases of this kind the appearance of taking action and giving attention, even if no practical result follows, is not of value; nor am I quite sure that the last word has been said on the subject, or that all the necessary information has been so obtained and so compared as to enable us to say that no stone has been left unturned. But this is what we ought to be able to say by the time that the next Conference falls due.

There is also to my mind a constant and serious danger that, if we do not take the initiative, the United States may stand out on and through this question as the leaders of the English-speaking peoples in the Pacific as against the coloured races. This is not my own view alone.

The *Times* of 9th July, 1908, contains a reference from its correspondent at Vancouver to a proposal on the Pacific Coast for an international conference "to discuss the entire question of Oriental Emigration to Occidental countries." It is suggested that such a Conference should be held at Seattle in 1909.

Moreover, there have been suggestions or half invitations to us to take the initiative. A question was asked in the Commonwealth House of Representatives on the 22nd of April last as to a proposal that the Imperial Government should convene a conference of the self-governing States of the Empire to consider the question of the restriction of Asiatic immigration. Mr. Deakin's answer was that no invitation of the kind had reached the Commonwealth Government. He understood that it was not made by the Imperial Government but by private individuals.

In March last the House of Assembly of British Columbia passed a Resolution asking the Imperial Government to appoint a Royal Commission to fully enquire into the circumstances of Japanese immigration into British Columbia. The motion was aimed against the Dominion government, but it was described by the Premier of the province, Mr. MacBride, in a letter to Sir F. Hopwood, as in effect "an endeavour to secure a full and impartial investigation by means of an Imperial Royal Commission into the whole question of Asiatic immigration"; and an amendment moved by the partisans of the Dominion Government, but not carried, was an invitation to the Imperial Government "to appoint a Royal Commission to fully consider the broad question of Asiatic Immigration into the colonies and dominions of Great Britain beyond the seas."

(II) But, if we are to take any action, it can only be with a view to some general policy. Is any general policy possible, unless it be a general policy of negation *i.e.*, of simple exclusion? It is perfectly certain that each Dominion, or group of Dominions, will deal with the matter from the point of view which its climate and conditions

dictate. Canada, Australasia, and South Africa are wholly distinct parts of the world, and the question cannot be absolutely identical in all cases. But there is some common ground at any rate; and inasmuch as these Dominions agree in the fact of exclusion, they may be brought to agree, and indeed as a matter of fact they do to a large extent agree, in the methods of exclusion; and agreement might be carried, by interchange of views, a little further.

It seems to me therefore that there is no reason to rule out initiative by the Imperial Government as necessarily superfluous or harmful. It may at this or that time be inopportune, but there is room for enquiry and room for suggestion, and if enquiry or suggestion comes, it would reasonably and naturally come from the Home government. It is consequently worth while to go on to ask whether any suggestions have been or can be made (a) as regards a possible final solution of the problem; (b) as regards the preliminary methods of looking for a solution.

I have inverted the natural order of these two questions for the convenience of the memorandum.

(a) The only definite proposal which I have seen put forward as a solution of this question is that some particular area or territory in the Empire, where there is plenty of room, should be set aside for coloured immigration and colonisation as a set off against their exclusion from the self-governing dominions. Mr. Churchill made a suggestion of this kind with regard to East Africa. Lord Selborne in a speech at Klerksdorp in March last said—"A very good arrangement, it appears to me, is that in this very wide Empire of ours certain districts which are now unoccupied by whites shall be reserved for the colonisation of Indians, just in the same way as we intend that places like Canada and South Africa shall remain European and not Asiatic." Sir M. Nathan may have had some similar idea when he wrote in May last with regard to the Indians in Natal—"Repatriation to India, or removal to some colony which Great Britain governs but does not colonise, of the bulk of the Indians outside of the Tropics in South Africa, is the only solution which would be completely satisfactory to the white races in the sub-continent." At the annual congress of the Transvaal Progressive Federation, held at Johannesburg in April last, a motion was brought forward, though subsequently withdrawn, in favour of reserving certain areas in the tropical portions of British South Africa for the Asiatics now in the self-governing colonies of South Africa.

I do not think that this suggested solution would be either feasible or efficacious. Asiatics are already free to settle and trade in the British Empire wherever there are Crown



Colonies or Protectorates, and the suggestion seems to amount to no more than laying down that there shall be certain areas in these Crown Colonies and Protectorates, not yet fully occupied, where the white men shall not be free to trade and settle. I do not think that the white men would agree to this, inasmuch as *ex hypothesi* the areas would not be the Asiatics' own homes, and I do not think that the Asiatics would be very anxious to keep out the white men, so long as they are themselves allowed to come in. The white men are a source of profit to them, and they have no such motive to exclude white men from a new country as they might have to exclude them from their own thickly populated native homes.

(b.) As regards the methods of looking for a solution, the suggestions may, I think, be given as three in number, two definite, and a third indefinite. There is first the suggestion that a Royal Commission should be appointed, presumably visiting the different Dominions. Secondly, there is the suggestion that an *ad hoc* conference should be summoned to deal with this particular question. The third, the indefinite, suggestion is that the question shall be taken up and handled by the Imperial Conference Secretariat. The *Times*, of 2nd January, 1908, concluded a leading article on "The Asiatic Difficulty" with the words: "The Asiatic difficulty throughout our colonies is the gravest and most urgent problem with which Imperial statesmanship is now confronted, and it can be solved only by a direct appeal to the sense of Imperial responsibility in the sister States of the Empire, and by a great constructive effort to reconcile their rights and their interests with the duties and ideals which membership of a common Empire implies."

This it followed up, on the 5th of February, with a leading article on "British Indians in the Transvaal," which ended as follows: "Is it not high time that, at any rate, upon this colour question with its enormous risks, we should have some thoroughgoing understanding among all portions of the Empire? It is important enough for a Colonial Conference *ad hoc*; but, if that is too much to ask for, the new Secretariat might at least pave the way by communication with the self-governing colonies for a Commission of some sort, which should elaborate an Imperial scheme to anticipate and avert evil by a common understanding. The importance of the problem cannot be overstated, and urgency may come upon us at any time with little or no warning, yet we have at present no Imperial opinion about the race question, far less any Imperial unanimity about practical policy."

On the 20th of March, at the end of a leading article on "The Dominions beyond the Seas," the *Times* wrote, *apropos* of Mr. Mackenzie

King's mission to England and the co-operation of Mr. Lemieux and Sir Claude Macdonald at Tokio: "We may further hope, now that Canada has taken the lead in this method of conducting affairs which interest more than one part of the Empire, that the newly formed Imperial Secretariat at the Colonial Office will encourage it by the unrivalled means of communication which it has in its power, and develop this domestic diplomacy, as it may be called, which was the chief reason for its creation."

In the *Times* of the 13th of April there is a letter on Oriental Immigration, signed by Messrs. Munro Ferguson, E. T. Cook, Julian Corbett, H. A. L. Fisher, and Basil Williams. It begins, "We and some other Liberals who are interested in colonial subjects desire to put in a plea that the Imperial Government should take the initiative in securing a thorough discussion, in which all parts of the Empire should take part, of the whole question of Oriental immigration." The letter continues: "Hitherto it has only been treated in a piecemeal fashion as the immediate necessity has arisen; it is one to be dealt with in the most comprehensive fashion by consultation among all concerned. Here would seem to be one of the occasions for which the Imperial Secretariat was called into existence. It might most profitably institute an enquiry, whether by a joint commission or otherwise, to thrash out the whole subject." This letter, which is an extremely good one, points out that "it is essential that facts should be faced, and that after full consultation between all parties concerned in the British Empire these facts should be made known," and it urges a joint conference or enquiry "to which representatives from our own Colonial, Foreign, and India Offices, from India, and from all the Colonies and Dominions concerned should be parties."

I now venture to make my own suggestions.

(1.) As regards a solution of the problem I think it is useless to deprecate, or at any rate to hope to modify to any appreciable extent, the policy of excluding wholly or partially, coloured immigrants. It is a settled policy; and as the world becomes fuller, and labour stronger, exclusion generally of white as well as coloured men will tend to be more and more the rule. And the coloured men have the same intentions in their own homes.

19457/08  
Canada.

Sir Claude MacDonald, in his report on Japan for 1907, in referring to the Vancouver riots, writes as follows:—

"It must always be remembered that, while the American question is essentially one of labour, the British Columbian is one mainly of



"land, for the thousands of acres of unoccupied land in the beautiful climate of British Columbia will always be looked upon with longing eyes by the overcrowded populations of China and Japan, until possibly what now is immigration will some day become invasion . . . . With regard to this question of immigration of Japanese into America and Canada it may be here interesting to note the attitude of the Japanese, where they, in turn, are threatened by the competition of labourers who are willing accept less wages than themselves." He then gives an instance of Chinese workmen who had been introduced under contract into Japan for railway work not being allowed to take it up, and continues: "The plain truth is that those in possession of the labour market object to the competition of men who are willing to do the same work as themselves for a lower wage, or to do more work for the same wage. The objection is somewhat natural, and the above incident shows that it is held quite as strongly by the Japanese as by the inhabitants of the opposite shores of the Pacific. And so also with the land. The Canadians are aware that no Canadian can own a foot of land or hold a single mining claim in Japan, or acquire a fishing right anywhere in Japanese waters; while Japanese can and do do all these things in Canada, and this knowledge arouses racial resentment, and the instinct of self preservation. These disabilities will, I am told, in time be done away with, but they exist now, and this is another inducement which should and, I know, does weigh with the Japanese Government in their determination effectually to restrict emigration from their shores to those of Canada and America."

The solution of the question, so far as there can be any solution, seems to me to lie in treaty arrangements. When there was an outcry against Chinese immigration into Australia in 1888, the conference at Sydney favoured negotiations between the Imperial Government and the Chinese Government for restricting such immigration, and Sir Robert Herbert drafted articles for a Treaty with China, which ran as follows:—

- "1. The subjects of either Power, being officers of the Government, teachers, students, merchants, or travellers, or belonging to other classes than that of labourers as hereinafter defined, shall, if provided with certificates from their Government, duly counter-signed on behalf of the Government of the place to which they are proceeding, be freely admitted to visit, pass through, or reside in all possessions, provinces, territories, or places under the sovereignty or protection of the other, without let or

hindrance; and shall receive from the Government of the place in which they may be, all proper assistance and protection."

- "2. Labourers, the subjects of either Power shall also be admitted to reside and carry on their occupations within the dominions of the other, but only in such possessions, provinces, territories, or places as may from time to time be notified as being open to them, and under such laws or rules as may for the time being be established for regulating their numbers, and the conditions of their residence and employment."
- "3. For the purposes of this treaty the term 'labourers' shall be understood to include servants working for wages, as well as persons employed or occupied in mining or searching for gold or other minerals, or as artisans, or manufacturers, or in agriculture or any other form of manual labour."
- "4. As soon as conveniently may be, after the signature of this treaty, either Power shall notify to the other those of its possessions, provinces, territories, or places into which labourers will, for the time being, be admitted either freely or subject to restrictions, and it is understood and agreed that the permission so granted to reside and work in any place may be at any time withdrawn, without notice, and without compensation to persons whose employment or occupation may be thereby interrupted."

In sending these articles to the Foreign Office our letter pointed out "that in order not to wound the susceptibilities of China, the stipulations contained in these articles avoid all mention of the exclusion of Chinese from Australia and put both countries on an equal footing in respect of the privileges and disabilities of their subjects."

Now it seems to me that if clause 2 is given a more negative form "Labourers . . . . shall not be admitted . . . . except only in such possessions," and if merchants are defined so as to exclude hawkers, pedlars, and petty traders, we have here a model Treaty, which, if any further foreign complications were to arise, all the self-governing Dominions might accept, and thus we should have one consistent frame of policy throughout the Empire.

Supposing occasion arose to make such a treaty—say with China—then, as the question is one which we admit is clearly within the competence of the self-governing Dominions, I should like, though it is not of the essence of



the matter, to see the treaty signed by their representatives as well as by the Imperial Secretary of State or Minister. As His Majesty's Government, in the recent Arbitration Treaty with the United States, has reserved the right "before concluding a special agreement affecting the interests of a self-governing Dominion of the British Empire to obtain concurrence therein of the Government of the Dominion," so, when the subject of a general treaty concerns the internal affairs of the Dominion, I think their representatives might with advantage be co-signatories.

But the main difficulty is within the Empire itself, and I should meet it by allowing the self-governing Dominions and India to make agreements with each other on similar lines to the above. In commercial treaties the individuality and the standing of India are recognised by "brigading" India with the self-governing Dominions in the clause which gives these communities the option of adhering or not to a particular treaty. It is entitled to deal with the Dominions on something like equal terms.

The objections to what is proposed are—

- (a) That treaties within the Empire between its component parts, although not a novelty, would emphasise the diversity of the parts instead of the unity of the whole, and may lead to complications.
- (b) That the Canadians, Australians, &c., while restricting the incoming of East Indians, have probably not contemplated mutual restriction.

My answer is that we had better recognise facts. These provinces are so many distinct nations, and they wish, within reason, to be recognised as such. If Australia is given the right to make its treaty with India, the satisfaction of being able to do so will incline Australians to treat India as an equal. If India is allowed to make its own terms with Australia, and those terms are mutual, the resentment caused by exclusion will tend to disappear. The model treaty would require modification in its terms so as to reduce it to the dimensions of a friendly agreement within the Empire, and especially so that all the upper classes would come and go as they please without "certificate from their government." The case of the white Australian workman wanting to go to India is sufficiently rare to make the requirement of some permit in his case no real hardship. How the Indian Government would view such a proposal it is impossible to say, but it seems to me that the sting of this exclusion of Asiatics will be largely taken away if there is even the appearance only of reciprocity.

Turning to the question of what methods should be adopted in looking for a solution, I am

inclined to think, if in a short time some suitable occasion were to arise, or if the step could be taken without attracting undue attention, that the best preliminary enquiry would be by a mission from England, say a representative of the Colonial Office, either the Secretary to the Imperial Conference or another, coupled with some Anglo-Indian of high standing, who would visit the different Dominions in turn and in each Dominion be supplemented by representatives of that Dominion their object being simply and solely to collect, tabulate, and compare facts, and to summarise the information with a view to laying it before the next Imperial Conference or a conference summoned *ad hoc*. Such a Commission, so limited, could hardly lead to misunderstanding; but in any case the possibility of misunderstanding could be eliminated by consulting the Governments beforehand in whatever way may be thought best, whether secretly through the Governors, to whom in that case these memoranda might possibly be sent for strictly confidential use, or simply by open dispatch.

I should like in conclusion to emphasise a suggestion made in the longer memorandum\* that, whenever opportunity offers, we should welcome the entrusting of this race question to the federal legislatures, as opposed to the provincial or state legislatures, as the larger bodies are likely to deal with it on broader lines. I would also like to urge that on a question of this kind no little good may be done by circulating through the Dominions an authoritative epitome of facts, and that a revised edition of the longer memorandum should be issued from the Imperial Conference Secretariat.

C. P. L.

July, 1908.

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\* Dominions No. 1.



CO 586/1/5

Printed for the use of the Imperial Conference Secretariat.

Dominions

No. 5.

CONFIDENTIAL.

# CORRESPONDENCE

RELATING TO THE

# IMPERIAL CONFERENCE.

(Continued by Dominions No. 7.)

COLONIAL OFFICE,

October, 1908.



## TABLE OF CONTENTS.

## I. (Resolution I) Imperial Conference Secretariat.

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
<b>1907.</b>					
1	The Governor ...	Transvaal, 442.	November 4 (Rec. Nov. 23.)	Forwards Minute from Ministers expressing great gratification with the alterations made and a strong opinion that the Secretary to the Conference should communicate with Ministers through their representative in London.	1
2	Ditto ..	Cape of Good Hope, 332.	November 9 (Rec. Nov. 30.)	Transmits copy of a Minute from Ministers expressing satisfaction with the arrangements made as a temporary expedient pending the establishment of an Imperial Department and suggesting a conference with the Agents-General for the purpose of establishing their relations with the new Secretariat.	2
3	Ditto ...	Orange River Colony, 101.	November 11 (Rec. Nov. 30.)	Acknowledges receipt of the Secretary of State's Miscellaneous despatch of 21st September, 1907.	3
4	The Governor-General.	Australia, 285.	November 20 (Rec. Dec. 23.)	Transmits copy of a despatch from the Prime Minister criticising the proposals made in the Secretary of State's Miscellaneous despatch of 21st September, 1907.	4
<b>1908.</b>					
5	The Governor ...	Natal, 219.	December 21, 1907. (Rec. Jan. 11, 1908.)	Conveys opinion of Ministers that the Agent-General in London should be brought into touch with matters appertaining to the affairs of the Conferences, and that the work of the Secretariat will be facilitated by adopting the alternative channel of communication suggested.	5
6	Ditto ...	New South Wales, Telegram.	(Rec. Feb. 7)	Requests, on behalf of the Prime Minister, that the reorganisation of the Colonial Office may not be settled pending receipt of views of various States now being forwarded.	6
7	Ditto ...	New South Wales, 12.	February 1 (Rec. Mar. 16.)	Transmits copy of a Minute from Ministers calling attention to the rights of the Australian States in this connection.	6
8	To the Governor ...	New South Wales, Telegram.	March 31	Points out, in reply to No. 7, that the new arrangements do not involve any alteration in the system of direct correspondence with State Governors, and that all business hitherto passing through State Governors should follow the same channel unless there is formal and constitutional authority for a change of system.	9

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
<b>1908.</b>					
9	To the Governor-General.	Australia, Telegram.	March 31	Quotes No. 8 to the Governor of New South Wales.	10
10	The Lieutenant-Governor.	Tasmania, 9.	March 2 (Rec. April 4.)	States that his Ministers support the contention that the position of Tasmania as a self-governing State, sovereign under the Crown, has not been impaired by federation and consider that any organisation which does not fully recognise that position appears to them to call for reconsideration.	10
11	To the Governor ...	New South Wales, Telegram.	April 9	Requests him to repeat No. 8 to the other States.	10
12	The Governor ...	Newfoundland, 55.	April 30 (Rec. May 11.)	Transmits copy of a letter from the Prime Minister suggesting that the Imperial Secretariat should keep each Dominion informed of laws enacted in other Dominions, and observing that he is not yet aware whether the Secretariat has entered upon its duties.	11
13	To the Governor-General and Governor.	Canada, 262. New Zealand, 73.	May 15	Enquires whether Ministers have any observations to make on the Secretary of State's "Miscellaneous" despatch of 21st September, 1907.	12
14	The Governor-General.	Australia, 114.	April 24 (Rec. May 30.)	Transmits copy of a letter from the Prime Minister commenting on the construction placed upon the Secretary of State's despatch of 21st September, 1907, by the Government of New South Wales, and requesting the assurance of His Majesty's Government that they have decided to proceed on the assumption that the Conference of 1907 declined to admit the States.	12
15	To the Governor-General.	Australia, 190.	June 12	Requests, in reply to No. 14, that Mr. Deakin may be informed that Lord Crewe sees no reason for differing from the views expressed in the Secretary of State's despatch of 16th February, 1907, and that although State Governments will not be directly represented at meetings of the Conference they will be consulted on all matters directly concerning the States.	13
16	The Governor ...	Queensland, 28.	May 20 (Rec. June 29.)	Forwards copy of a Minute from the Acting Premier concurring in the view of the New South Wales Government that in all matters not of purely "Imperial" concern the States should enjoy the same unrestricted access to the Secretary of State as they enjoyed prior to Federation.	14



## II. (Resolution III) Imperial General Staff and the Sending of Colonial Officers to Staff College.

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
			1908.		
17	The Governor-General.	Canada, 523.	December 24, 1907. (Rec. Jan. 6, 1908.)	Forwards copy of an approved Minute of Privy Council suggesting that steps should be taken to carry into effect the proposal for the interchange of Imperial staff-officers and Canadian officers.	15
18	To War Office ...	Canada	January 14	Encloses copy of No. 17 and calls attention to the statement in the Minute enclosed therein to the effect that the principle of reciprocity is fully accepted by the Canadian Government.	16
19	War Office ...	—	February 4	States that the Army Council observe with regret that no officer has been sent to the Staff College this year from the Colonies named and requests that the attention of the Governments concerned may be called to the importance, with a view to the formation of an Imperial General Staff, of sending qualified officers each year.	16
20	Ditto ...	Canada	February 14	Approves of the proposals in the despatch enclosed in No. 18; Colonel W. D. Otter has been selected for the command of the 5th Infantry Brigade at Aldershot as a first step.	17
21	To the Governor-General.	Canada, 87.	February 20	Transmits copy of No. 20 and enquires if the proposal made therein would be agreeable to Colonel Otter.	17
22	To the Governors-General.	Australia, 61. Canada, 94.	February 21 February 22	Transmits copy of No. 19 ...	17
23	War Office ...	—	February 28	Reports that a scheme is under consideration for giving effect to the proposals outlined by the Secretary of State for War at the Conference in connection with the formation of an Imperial General Staff, and that a Memorandum on the subject will be forwarded in due course.	18
24	To the Governors ...	New Zealand, 60. Cape of Good Hope, 64. Natal, 58. Orange River Colony, 43. Transvaal, 94.	April 11	Transmits copy of a Memorandum drawn up by the War Office stating conditions of entry and nature of course of study at the Staff College at Camberley; the Army Council trust that Ministers will arrange to send yearly one or more duly qualified officers for training.	18

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
			1908.		
25	To War Office ...	—	June 30	Enquires, with reference to No. 23, whether the War Office can make any statement with regard to the formation of an Imperial General Staff.	18

## III. (Resolution V) Judicial Appeals.

			1907.		
26	The Governor-General.	Australia, Confidential.	July 16 (Rec. Aug. 20.)	Transmits views of the State Governments on the subject of Appeals to the Privy Council from the Colonies, together with memoranda by the late Attorney-General, the present Attorney-General, and the Commonwealth Crown Solicitor.	19
27	To Privy Council ...	Australia	August 28	Transmits copy of No. 26 ...	34
28	Ditto ...	—	December 18	Transmits copy of the finding of the recent Colonial Conference with regard to the question of Judicial Appeals, and requests that action may be taken with a view to carrying out the resolutions submitted by the Government of Cape Colony as far as possible in accordance with the statement made by the Lord Chancellor at the Conference.	34

## IV. (Resolutions VI and VII) Australian Preference.

			1907.		
29	Mr. A. Deakin ...	Australia	May 22	Requests that the Customs Tariff (British Preference) Bill may remain reserved pending the exchange of further communications.	34
30	To the Governor-General.	Australia, 135.	June 6	Transmits copy of No. 29, and states that His Majesty will not be advised with respect to the Bill.	35
			1908.		
31	Commonwealth Agency.	Australia	January 25	Statement showing extent of preference to the United Kingdom given in the new Australian Tariff on certain items.	35

## V. Appointment of Trade Commissioners in Colonies and supply of information respecting Colonial Legislation affecting trade interests.

			1907.		
32	Treasury ...	—	July 29	Transmits copy of a letter from the Board of Trade requesting sanction to an expenditure of £10,000 to cover the cost of appointment of four commercial agents and requests observations before coming to any decision in the matter.	36



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
<b>1907.</b>					
33	To Treasury ...	—	August 31	Agrees generally with the recommendations of the Board of Trade, and suggests action in the matter of the appointments of officers and the instructions to be issued.	40
34	To the Governors-General and Governors of responsible Government Colonies.	Miscellaneous.	September 4	Calls attention to the difficulty experienced by the Board of Trade through the inadequate supply of early information relative to Colonial Legislation affecting British Trade, and enquires whether the arrangements indicated could be undertaken. [To Australia] points out that His Majesty's Government were without official information of the details of the new Tariff.	41
35	The Governor ...	Orange River Colony, 78.	October 7 (Rec. Oct. 26.)	States that No. 34 will be laid before the new Government at the earliest opportunity.	42
36	Ditto ...	Transvaal, 437.	October 28 (Rec. Nov. 16.)	Forwards Minute from Ministers stating that they will be glad to supply the information asked for and have made the necessary arrangements.	42
37	Ditto ...	Cape of Good Hope, 329.	November 4 (Rec. Nov. 23.)	Transmits Minute from Ministers expressing readiness to supply the information desired pending the appointment of commercial agents, and asking to be informed more precisely what the Board of Trade desire to know.	43
38	The Governor-General.	Australia, 264.	October 30 (Rec. Nov. 30.)	Transmits copy of a despatch from the Prime Minister replying to the complaint of His Majesty's Government that they were ignorant of the details of the new Tariff, and commenting on the proposals of the Board of Trade.	44
39	To Board of Trade	Cape of Good Hope.	December 2	Transmits copy of No. 37, and asks for a more precise statement than has yet been furnished as to the extent of the information desired.	46
40	The Governor ...	Newfoundland, 150.	November 29 (Rec. Dec. 16.)	Forwards copy of a letter from the Prime Minister expressing readiness to supply the information asked for provided the legislative liberty of the Colony is not interfered with and assuming that the cost will be borne by His Majesty's Government.	47
41	The Governor-General.	Canada, 482.	December 3 (Rec. Dec. 16.)	Forwards approved Minute of Council, suggesting that the work of supplying information could best be done by some one official appointed for the purpose by His Majesty's Government.	48
42	Ditto ...	Canada, 483.	December 3 (Rec. Dec. 16.)	Communicates suggestion of Sir R. Cartwright, Minister of Trade and Commerce, that a British Commercial Agent or Commercial Attaché should be appointed by His Majesty's Government charged with the duty of obtaining the information required.	49

Serial No.	From or to whom.	Despatch No., &c.	Date	Subject.	Page.
<b>1907.</b>					
43	To Board of Trade	Australia	December 21	Transmits copy of No. 38, and proposes to reply in the sense indicated.	50
<b>1908.</b>					
44	Ditto ...	Canada	January 10	Transmits, with remarks, copies of Nos. 35, 36, 40, 41, and 42, and suggests that the questions of the drawing up of instructions for commercial agents might be referred to the Commercial Intelligence Committee; requests early reply to No. 43.	50
45	To the Governor-General.	Australia, 35.	January 31	Explains, in reply to No. 38, that when the Secretary of State's telegram of August 10, 1907, was despatched the telegram sent through Reuter giving full details of the tariff had not appeared in the English Press, and was not published till August 12; regrets that No. 34 should have appeared to imply remissness on the part of the Commonwealth Government and expresses appreciation for the full information telegraphed from time to time through Captain Collins.	51
46	The Governor ...	Natal, 9.	January 13 (Rec. Feb. 8.)	States, in reply to No. 34, that Ministers are anxious to meet the wishes of the Imperial Government but that they desire further information as to the requirements of the Board of Trade.	51
47	Ditto ...	Orange River Colony, 9.	January 20 (Rec. Feb. 8.)	States that the wishes of the Imperial Government in No. 34 have been noted, but that it may not be desirable in some instances to give information in advance.	52
48	Board of Trade ...	—	March 9	Agrees to course proposed in No. 44, and encloses for concurrence draft heads of instructions to be issued to Commissioners or Agents when appointed.	52
49	To Board of Trade..	—	April 23	Expresses general approval of the draft instructions enclosed in No. 48; suggests that before they are issued they should be shown to the two special representatives of the Dominions on the Commercial Intelligence Committee.	53
50	Board of Trade ...	Newfoundland.	June 18	Proposes to appoint Mr. le Messurier as paid correspondent for Newfoundland on the terms indicated, and requests that an expression of the Board's appreciation of Mr. le Messurier's services may be conveyed to the Newfoundland Government.	53
51	Ditto ...	Canada	June 23	Reports appointment of Mr. R. Grigg as His Majesty's Trade Commissioner in Canada, and requests that the necessary communications may be made to the Dominion Government; encloses copies of Mr. Grigg's instructions and adds that the instructions to the Trade Commissioner to be appointed in Australia, New Zealand and South Africa will be adapted therefrom.	54



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
			1908.		
52	To the Governor ...	New-found-land, 95.	June 25	Transmits copy of No. 50 and enquires whether Mr. le Messurier is prepared to accept the terms offered.	54
53	To the Governor-General.	Canada, Telegram.	June 30	Requests him to inform Ministers that the Board of Trade have appointed Mr. Richard Grigg as Trade Commissioner in Canada.	55

VI. (Resolution X), (a) Coastwise trade in the Colonies  
(b) Trade between United States and its Colonies.

			1908.		
54	The Governor-General.	Canada, 19.	January 20 (Rec. Feb. 3.)	Forwards copy of an Order in Council withdrawing the privilege of sharing in the coasting trade from the vessels of the countries named.	55
55	Ditto ...	Canada, Confidential.	January 20 (Rec. Feb. 4.)	Forwards copy of correspondence with the Minister of Marine and Fisheries on the subject of possible retaliation by foreign nations in consequence of the proposed Order in Council withdrawing coasting trade privileges.	56
56	To Foreign Office and Board of Trade.	Canada	February 21	Transmits copies of Nos. 54 and 55 ...	57
57	To the Governor-General and Governors.	Australia, 75. New Zealand, 35. New-found-land, 29. Natal, 29. Cape of Good Hope, 39.	March 5	Transmits copy of No. 54 ...	58
58	To the Governors...	Transvaal, 60. Orange River Colony, 29.	March 6	Ditto ditto ...	58
59	To the Governors-General and Governor.	Canada, 318. Australia, 184. New Zealand, 99.	June 5	Transmits copy of a despatch from Washington conveying a bill introduced into the United States Senate to permit the engagement of foreign vessels in the trade between the United States and Hawaii.	58

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
			1908.		
60	To the Governors...	Cape, 113. Natal, 100. Transvaal, 155. Orange River Colony, 72. New-found-land, 88.	June 19	Transmits copy of a despatch from Washington reporting passage of a Bill opening the carrying trade between the United States and the Philippines to foreign vessels, and adds that the bill introduced into the United States Legislature to permit the engagement of foreign vessels in the trade between the United States and Hawaii has not yet been passed.	59
61	To the Governors-General and Governor.	Canada, 353. Australia, 202. New Zealand, 112.	June 19	Ditto ...	61

VII. (Resolution XI.) (1) Model Draft Treaty of Commerce and Navigation.

			1907.		
62	To the Governors-General and Governors.	Australia, Canada, New Zealand, Cape of Good Hope, Natal, New-found-land, and Transvaal, Confidential.	August 1	Transmits copy of a draft Treaty of Commerce and Navigation, and enquires whether Ministers have any suggestions to offer.	61
63	The Governor ...	Natal, Confidential.	October 26 (Rec. Nov. 16.)	States that Ministers would consider it an advantage if the subjects of commerce and navigation were dealt with in separate treaties; they are, generally speaking, in favour of the terms of the draft treaty, but call attention to certain points.	62
64	Ditto ...	Cape of Good Hope, Confidential.	November 1 (Rec. Nov. 23.)	Forwards minute from Ministers, expressing the opinion that the draft articles are as satisfactory as can be desired.	62
65	Ditto ...	New Zealand, Confidential.	October 23 (Rec. Nov. 30.)	States that Ministers have no suggestion to offer with regard to the Memorandum and Draft Treaty of Commerce.	63



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page
1908.					
66	The Governor ...	Newfoundland, Confidential.	December 24, 1907 (Rec. Jan. 3, 1908.)	Forwards, with reference to No. 62, copy of a Minute from Ministers concurring generally in the proposals made, and offering suggestions on minor points.	64
67	Ditto ...	Transvaal, Confidential, 3.	December 16, 1907 (Rec. Jan. 4, 1908.)	Forwards Minute from Ministers pointing out serious difficulties in the way of accepting the Treaty and suggesting that the provisions as to the adhesion or defection of a Colony after twelve months' notice provide a solution.	65
68	The Governor-General.	Australia, 297.	November 27, 1907 (Rec. Jan. 6, 1908.)	Transmits copy of a despatch from the Prime Minister pointing out serious objections to the Draft Treaty and submitting that it might be divided, or that a dominion might be given the option of adhering to one part only.	66
69	To the Governors and Governor-General.	New Zealand, Newfoundland, Cape, Transvaal, Natal, Australia, Confidential.	February 3	Transmits copies of the replies to No. 62 received from the other Dominions; proposes to address a further despatch on receipt of the reply from the Government of the Dominion of Canada.	67
70	To the Governor ...	Orange River Colony, Confidential.	February 3	Transmits copies of No. 62 and the replies received thereto, and awaits observations of Ministers on the Draft Treaty.	67
71	The Governor-General.	Canada, Confidential.	January 20 (Rec. Feb. 4.)	Forwards approved Minute of the Priy Council, setting forth objections to certain articles of the Treaty.	68
72	To Board of Trade	—	February 8	Transmits copy of No. 71, and requests the observations of the Board on the replies received from the various Colonies to No. 62.	70
73	To the Governor-General and Governors.	Australia, New Zealand, Newfoundland, Cape of Good Hope, Transvaal, Orange River Colony, Natal, Confidential.	February 19	Transmits copy of No. 71, and states that a further communication will be made in due course.	70

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
1908.					
74	To the Governor-General.	Canada, Confidential 2.	February 19	Transmits copies of Nos. 63 to 68 inclusive.	70
75	Board of Trade ...	—	March 27	Submits observations, in reply to No. 72, on the replies received from the various Governments.	71
76	To Foreign Office...	—	April 16	Transmits copies of Nos. 62-68, 71, and 75, and draft of a despatch to the Dominion Governments conveying the final conclusions of His Majesty's Government on the question.	72
77	The Governor ...	Orange River Colony, 59.	April 13 (Rec. May 2.)	Submits comments of Ministers on the Draft Treaty of Commerce and Navigation, and decision arrived at by them not to adhere to any treaty on the lines of the draft.	73
78	Foreign Office ...	—	May 8	Concurs in the terms of the draft despatch enclosed in No. 76.	74
79	Ditto ...	—	May 9	Forwards copy of a despatch from His Majesty's Minister at Bogota enclosing a note from the Colombian Minister for Foreign Affairs raising objections to the draft agreement permitting British Colonies to denounce the Anglo-Colombian Treaty of 1886 and making suggestions for amendment.	74
80	To Foreign Office...	Orange River Colony.	May 12	Transmits copy of No. 77 and requests an early reply to No. 76.	76
81	To the Governors-General and Governors.	Canada, Australia, New Zealand, Newfoundland, Cape, Natal, Transvaal, Orange River Colony, Confidential.	May 22	Transmits copy of No. 75, and observes that it will not be possible to recast the draft in any shape which would receive universal acceptance, but that the interests of the Dominions are adequately safeguarded.	76
82	Foreign Office ...	—	June 22	Transmits copy of a despatch to His Majesty's Minister at Guatemala, who is accredited to the Salvadorean Government, showing that the draft commercial convention with that Government contains certain modifications of the model draft convention and suggests that a further circular should be addressed to the self-governing Dominions.	77
83	To Foreign Office...	—	June 23	Expresses grave objections to the course proposed by the Colombian Minister in No. 79, as making a distinction between British subjects born in different parts of the Empire, and suggests an alternative course.	79



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
<b>VIII. (Resolution XI) (2) Withdrawal of the Colonies from various Treaties.</b>					
<b>1907.</b>					
84	Foreign Office ...	Australia	November 30	Enquires whether the inclusion of Queensland in the Commonwealth of Australia has affected the validity of the adhesion of that Colony to the Anglo-Japanese Treaty of 1894.	80
85	To Foreign Office...	Australia	December 28	Encloses opinion of the Law Officers that the Treaty still binds the Commonwealth in respect of Queensland: regards it as important to secure the concurrence of the Commonwealth Government in this view and submits draft of a despatch to the Governor-General: transmits copies of documents bearing on the question.	80
<b>1908.</b>					
86	Foreign Office ...	Australia	January 10	Concurs in the terms of the draft despatch to the Governor enclosed in No. 85 and suggests a few verbal alterations.	87
87	Ditto ...	Australia	January 16	Forwards copy of a Note from the Italian Ambassador calling attention to the desirability of the adhesion of South Australia to the Anglo-Italian Treaty of Commerce and Navigation, 1883.	87
88	To the Governor-General.	Australia, 14.	January 17	Argues that the treaty is still binding on the Commonwealth as regards Queensland, and proposes to so inform the Japanese Government.	88
89	To Foreign Office...	Australia	January 23	Transmits copy of No. 88, altered in accordance with the suggestions in No. 86 with the exceptions indicated.	91
90	To the Governor-General.	Australia 42.	February 7	Transmits copy of the enclosure in No. 87, and enquires whether Ministers concur in the proposed reply.	92
91	To the Governor-General and Governors.	Canada, 157, Cape, 51, Transvaal, 75, Orange River Colony, 34.	March 25	Transmits copy of an additional agreement to the Anglo-Egyptian Convention of 1889, and asks whether Ministers propose that the respective Colonies should adhere.	92
92	To the Governor-General.	Australia, 103.	March 27	Encloses copy of Agreement additional to the Anglo-Egyptian Convention of 1889, and states that an assurance has been obtained from the Egyptian Government that the Treaty of 1889 shall be regarded as still applicable to the Commonwealth in respect of Tasmania and Queensland.	93

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
<b>1908.</b>					
93	To the Governors...	Natal, 43, Newfoundland, 50, New Zealand, 49.	March 27	Transmits copies of an additional Agreement with Egypt concluded in pursuance of the policy indicated in the eleventh resolution of the Colonial Conference of 1907: and states that an assurance has been obtained from the Egyptian Government that the adherence of Natal, Newfoundland, and New Zealand to the original Convention shall be considered to be in force unless it is decided to give notice of withdrawal in the manner provided in the new Agreement.	93
94	The Governor-General.	Australia, 75.	March 17 (Rec. Apr. 18.)	Transmits Ministers' reply to No. 88, expressing the opinion that the question can best be disposed of by giving twelve months' notice of termination and the hope that Japan will continue to refrain from attempting to secure the admission of Japanese labourers into Queensland.	94
95	To the Governor-General.	Australia, Telegram.	April 25	Points out that the Governor-General reported on 31st January, 1902, that the Japanese Government regarded Queensland understanding referred to in No. 94 as abrogated, and states that His Majesty's Government proposes, if Ministers concur, to make no reference to the point in giving twelve months' notice of expiry of Treaty: presumes Ministers have informed Queensland Government of their decision.	95
96	The Governor-General.	Australia, 112.	April 16 (Rec. May 25.)	Forwards copy of a Memorandum by the Comptroller General of Customs relative to the recognition of Treaties to which the whole or a portion of the Australian States are parties: requests twelve months' notice may be given of the desire to terminate the adherence of any States affected by the Treaties enumerated.	95
97	To Foreign Office and Board of Trade.	Australia	June 3	Transmits copy of No. 96, together with copy of draft reply.	97
98	The Governor-General.	Australia, Telegram.	(Rec. June 17)	Reports, in reply to No. 95, that Ministers agree to course proposed and that Queensland Government concur in action taken by the Commonwealth.	98
99	To the Governors-General and Governors.	Canada, 351, Australia, 201, New Zealand, 111, Newfoundland, 87, Cape, 112, Natal, 99, Transvaal, 154, Orange River Colony, 71.	June 18	Transmits copies of a Declaration between the Governments of the United Kingdom and Paraguay of 14th March, giving to His Majesty's Dominions the right to withdraw separately at twelve month's notice from the Treaty of Commerce of 1894.	98



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
			1908.		
100	To Foreign Office ...	Australia, Queensland.	June 19	Transmits copies of Nos. 95 and 98 and requests that formal notice be now given of the determination of the adherence of Queensland to the Treaty.	98
101	Foreign Office ...	—	June 19	Refers to No. 97 and states that steps are already being taken to obtain amendments in the existing conventions in the sense desired by the Australian Commonwealth, and transmits alternative draft telegram to the Governor-General.	98
102	To the Governor-General.	Australia, Telegram.	June 30	Requests, in reply to No. 96, further information on the points specified before taking action.	99

## IX. (Resolution XIII.) Uniformity in Trade Marks and Patents.

			1907.		
103	To Board of Trade	—	December 11	Encloses copy of the Resolution of the Colonial Conference on the subject of uniformity in Trade Marks and Patents, and enquires whether the matter should be referred to a subsidiary Conference or to a Committee under the control of the Imperial Secretariat, or whether further information should first be obtained from the Dominions, and, if so, what information.	100
			1908.		
104	Board of Trade ...	—	March 13	Considers that the questions which formed the subject of the Resolution of the Colonial Conference may properly be referred to a Committee under the control of the Imperial Secretariat without requiring further details as to Colonial Laws.	100
105	To Board of Trade	—	May 30	Suggests that the Memorandum as to Patents which was laid before the Conference should be brought up to date and a similar Memorandum as to Trade Marks prepared.	101

## X. (Resolution XIV.) Uniformity in Trade Statistics.

			1907.		
106	To the Governors-General and Governors.	Canada, Australia, Newfoundland, Cape, Natal, New Zealand, Transvaal, Miscellaneous	July 30	Calls attention to the Resolution of the Conference as to the desirability of securing greater uniformity in trade statistics of the Empire, and commends for consideration the note prepared on the subject by the Imperial Government.	101

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
			1907.		
107	To the Governor ...	Orange River Colony, Miscellaneous.	July 30	Calls attention to the Resolution of the Conference as to the desirability of securing greater uniformity in trade statistics of the Empire, and commends for consideration the note prepared on the subject by the Imperial Government.	102
108	To Board of Trade	—	July 30	Conveys substance of Nos. 106 and 107	102
109	The Governor ...	Orange River Colony, 51.	September 16 (Rec. Oct. 5.)	States, in reply to No. 107, that should the Colony in future compile its own trade statistics, the Resolution of the Colonial Conference will be borne in mind.	102
110	To the Governor-General and Governors.	Australia, Cape, Natal, Transvaal, Orange River Colony, Miscellaneous.	October 16	Requests, with reference to No. 106 (or 107) that in future separate particulars may be given in the official trade reports of the quantities and values of goods imported at preferential rates of duty.	103
111	The Governor ...	Natal, 198.	October 28 (Rec. Nov. 23.)	Transmits, with remarks, in reply to No. 106, extract from a minute by the Natal Collector of Customs dealing with the four suggestions in the note at page 521 of [Cd. 3524].	103
112	The High Commissioner.	South Africa, 977.	November 18 (Rec. Dec. 7.)	Forwards copy of correspondence with the Governor of Natal on the subject of the communication to the Inter-Colonial Statistical Bureau of the Resolution of the Imperial Conference.	105
113	The Governor ...	Cape of Good Hope, 348.	November 29 (Rec. Dec. 21.)	Transmits copy of a Minute from Ministers submitting remarks on Nos. 106 and 110.	106
114	The High Commissioner.	South Africa, 1078.	December 9 (Rec. Dec. 28.)	Forwards copy of correspondence with the Governor of the Transvaal relative to the consideration of No. 110 by the Board of Control of the South African Customs Statistical Bureau.	108
			1908.		
115	Board of Trade ...	Cape of Good Hope	February 4	Submits remarks on No. 113; encloses specimen form used in Canadian returns and extracts, showing the classification adopted in import and export returns.	109
116	To the Governor ...	Cape of Good Hope, 22.	February 12	Transmits copy of No. 115 ...	111



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
			1808.		
117	The Governor-General.	Australia, 11.	January 11 (Rec. Feb. 17.)	Reports that in future the quantities and values of goods imported will be recorded against the particular countries of origin in all cases where quantity is now recorded, and the information sought by the Board of Trade will thus be made available.	111
118	Board of Trade ...	—	March 11	Transmits copy of a letter from the India Office relative to the views of the Government of India on the note laid before the Imperial Conference.	111
119	The Governor ...	Orange River Colony, 38.	March 9 (Rec. Mar. 28.)	States, with reference to Nos. 107 and 110, that Ministers are of opinion that further consideration of the matter should be deferred until the meeting of the forthcoming Inter-Colonial Customs and Railway Conference, at which the whole question of the working of the South African Customs Statistical Bureau is to be discussed.	113
120	To the Governors-General and Governors.	Australia, 109, Canada, 173, New-found-land, 55, Cape of Good Hope, 54, Natal, 47, New Zealand, 53, Transvaal, 83, Orange River Colony, 39.	April 2	Transmits copies of Nos. 109-117 ...	114
121	To Board of Trade...	Orange River Colony	April 14	Transmits copy of No. 119 ...	114
122	The High Commissioner.	South Africa, 267.	May 4 (Rec. May 23.)	Forwards copy of correspondence with the Governors of the Cape and Orange River Colony, the Administrator, Southern Rhodesia, the South African Customs Statistical Bureau, and the Secretary to the Inter-Colonial Customs and Railway Conference.	115
123	The Governor ...	New-found-land, 61.	May 9 (Rec. May 25.)	Transmits copy of a letter from the Prime Minister pointing out that alteration in the Tariff cannot take place until a new Revenue Act is passed, and that the staff is too small to admit of a second compilation in different form of the yearly returns.	119

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
			1908.		
124	The Governor ...	Cape of Good Hope, 104.	May 19 (Rec. June 6.)	Transmits copy of a Minute from Ministers suggesting direct discussion between the Principal of the Customs Statistical Bureau (who is proceeding to England) and the Board of Trade Authorities on the subject of No. 120, and stating that the question of classification will be fully discussed at the next meeting of the Board of Control of the Bureau.	120
125	To Board of Trade	South Africa, New-found-land.	June 12	Transmits copies of Nos. 122 and 123 ...	121
126	Ditto ...	South Africa.	June 18	Transmits copy of No. 124, and states that as soon as Lord Crewe learns whether the other South African Governments agree to the suggestion of the Cape Government, a further communication will be made.	121

#### XI. (Resolution XV.) Uniformity in Company Law.

			1907.		
127	To the Governors-General and Governors of Responsible Government Colonies.	Miscellaneous.	July 31	Calls attention to the Resolution of the Colonial Conference and commends it to the consideration of Ministers.	121
128	The Governor ...	Natal, 170.	September 27 (Rec. Oct. 21.)	States that the matter is already under consideration of the South African Governments in connection with the Joint Stock Bill drafted by the Attorney-General of the Transvaal, and that Ministers are of opinion that no special action need be taken pending a further communication from the Transvaal.	122
129	Ditto ...	Orange River Colony, 73.	September 30 (Rec. Oct. 21.)	States that the matter will be laid before the new Government at the earliest opportunity.	122
130	Ditto ...	Tasmania, 38.	October 14 (Rec. Nov. 18.)	Transmits communication from Ministers expressing sympathy with the desirability of securing greater uniformity.	123
131	The Lieutenant-Governor.	Victoria, 52.	October 14 (Rec. Nov. 18.)	States that it is understood the matter will be dealt with shortly by the Commonwealth Parliament.	123
132	The Governor ...	South Australia, 58.	October 18 (Rec. Nov. 26.)	Transmits copy of a report by the Registrar of Companies (in which Ministers concur) observing that there does not appear to be room for any difference of opinion that uniformity is desirable, and that Commonwealth legislation about to be introduced will be found in general to follow English legislation.	124



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
<b>1908.</b>					
133	To the Governors and Governor-General.	Orange River Colony, 32. New Zealand, 28. Newfoundland, 27. Cape, 32. Transvaal, 48. New South Wales, 20. Queensland, 13. Western Australia, 8. Canada, 98.	February 26	Requests a reply to No. 127 and transmits copies of replies already received.	124
134	To the Governor-General.	Australia, 63.	February 26	Forwards copies of the replies to No. 127, and enquires when the Commonwealth Government proposes to introduce legislation on the subject.	125
135	The Governor ...	Orange River Colony, 22.	February 10 (Rec. Mar. 2.)	States that Ministers have been, and will for some time to come be, unable to give this subject the necessary attention, but if possible the matter will be mentioned informally at the forthcoming Railway and Customs Conference, with a view to securing joint action by the various South African Colonies.	125
136	To Board of Trade	—	March 25	Transmits copies of correspondence and proposes the formation of a Committee; asks that the Comptroller of Companies may be nominated as the representative of the Board.	126
137	The Governor ...	Transvaal, 111.	April 13 (Rec. May 2.)	Reports that his Government propose to introduce during the forthcoming session of the Legislature a Bill consolidating and amending the company laws.	126
138	Ditto ...	Cape, 73.	April 13 (Rec. May 2.)	Transmits, with reference to No. 133, copy of a Minute from Ministers expressing full sympathy with the proposal and the hope that the South African Governments will be able to deal with it at no distant date.	127
139	The Acting Governor-General.	Canada, 169.	April 21, (Rec. May 4.)	Encloses approved Minute of Privy Council setting forth the steps taken to bring the matter of greater uniformity in Company Laws to the attention of the Provincial authorities.	127
140	The Governor-General.	Australia, 109.	April 14, (Rec. May 16.)	Reports that a Bill dealing with Company Laws is likely to be introduced to Parliament by the Government next session.	128

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
<b>1908.</b>					
141	To the Governors-General and Governors.	Australia, 165. Canada, 280. Newfoundland, 76. New Zealand, 82. Transvaal, 130. Orange River Colony, 56. Natal, 80. Cape, 94.	May 22, 23	Transmits copy of a draft Bill to consolidate the Companies Law which is being introduced by His Majesty's Government into Parliament.	129
142	The Governor ...	New South Wales, 34.	April 13 (Rec. May 25.)	Reports that his Ministers propose to await action on the part of the Commonwealth Government.	129
143	Ditto ...	Queensland, 25.	May 8 (Rec. June 15.)	Reports that the Queensland Government does not propose to take any action on the resolution adopted by the Colonial Conference, as it is understood that the Parliament of the Commonwealth will shortly be asked to legislate on the subject.	130
144	The Lieutenant-Governor.	Western Australia, 10.	May 18 (Rec. June 15.)	Transmits copy of a Memorandum from the Acting-Premier, pointing out that the Government cannot do more than express a favourable opinion in the matter of greater uniformity in Company Law, the question of legislation being one for the Commonwealth Government.	130
145	To the Governors-General and Governors.	Australia, 207. Canada, 364. Newfoundland, 93. New Zealand, 114. Cape, 117. Transvaal, 163. Orange River Colony, 73. New South Wales, 54. Queensland, 40. Western Australia, 26.	June 23	Transmits copies of further replies from the Dominions and State Governments.	131



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
			1908.		
146	To the Governors...	Tasmania, 24, Natal, 102, Victoria, 33, South Australia, 34.	June 23	Transmits copies of the replies received from the Dominions and State Governments.	131

### XII. (Resolution XVI.) Reciprocity in Admission of Surveyors to Practice.

147	To the Governor-General and Governors.	Canada, 184, New Zealand, 56, Cape, 58, Natal, 50, Transvaal, 87, Orange River Colony, 40, Newfoundland, 58, New South Wales, 33, Victoria, 21, Queensland, 23, South Australia, 22, Western Australia, 15, Tasmania, 16.	April 8	Calls attention of Ministers to the Memorandum of the Council of the Surveyors' Institution, at page 587 of [Cd. 3524], and requests to be supplied with copies of the syllabus of examination usually recognised.	131
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### XIII. (Resolution XIX.) Naturalization.

148	To Home Office ...	—	January 28	Proposes the appointment of an inter-departmental Committee to discuss the amendment of the draft Naturalization Bill; suggests action to be taken when the recommendations of the Committee have been considered by His Majesty's Government.	132
149	Home Office ...	—	March 3	Approves the proposed appointment of an inter-departmental Committee to consider what amendments can be made in the draft Naturalization Bill, and states that Sir M. D. Chalmers has agreed to represent the Home Office and to act as chairman; names representatives for the Foreign Office and India Office, and requests that the necessary steps may be taken for the appointment of the Committee.	133

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
			1908.		
150	Foreign Office ...	—	March 14	Transmits copy of correspondence with the Home Office respecting the introduction of a Bill to consolidate and amend the law relating to aliens and naturalization, and the inclusion therein of a clause declaratory of the status of persons born in States where His Majesty exercises extra-territorial jurisdiction.	133
151	To Sir M. D. Chalmers, Mr. W. R. D. Maycock, and Mr. S. G. Sale.	—	March 21	Notifies decision to appoint an inter-departmental Committee to discuss the amendment of the draft Naturalization Bill, and appoints them to serve thereon.	135

### XIV. Naval Defence, Australia and New Zealand.

			1907.		
152	The Governor-General.	Australia, 249.	October 16 (Rec. Nov. 18.)	Transmits copy of a despatch from his Prime Minister submitting amended proposals for defence.	136
153	Ditto ..	Australia, Telegram.	(Rec. Dec. 6.)	Reports that Parliament is about to adjourn and that Ministers request immediate reply by telegraph to No. 152.	138
154	Admiralty ...	Australia.	December 7	Comments on the proposals in No. 152; Admiralty are not prepared to depart from the position taken up at the Conference nor to formulate the terms of a definite agreement on the lines suggested by Mr. Deakin.	138
155	To the Governor-General.	Australia, Telegram.	December 7	Conveys substance of No. 151 ...	140
156	The Governor-General.	Australia, Telegram.	(Rec. Dec. 9.)	Requests that the points indicated in No. 155 may be made clearer.	140
157	To the Governor-General.	Australia, Telegram.	December 13	Conveys opinion of the Admiralty that the proposals of Ministers cannot, for the reasons indicated, be accepted.	141
158	Ditto ...	Australia, 315.	December 13	Confirms Nos. 155 and 157 and transmits copy of No. 154.	141
159	To the Governor ...	New Zealand, 114.	December 13	Transmits copies of Nos. 152, 154-158 ...	142
160	The Governor-General.	Australia, Telegram.	(Rec. Dec. 17.)	Embodies Minute from Ministers explaining their views, and requesting further information.	142
161	To Admiralty ...	Australia	December 20	Transmits copy of No. 160 and enquires what answer should be returned, suggests full explanation by despatch.	142
			1908.		
162	The Governor-General.	Australia, 317.	December 18, 1907 (Rec. Jan. 20, 1908.)	Forwards copies of a speech by the Prime Minister on the subject of Defence.	143
163	Ditto ...	Australia, 331.	December 24, 1907 (Rec. Jan. 25, 1908.)	Transmits copy of a despatch from the Prime Minister embodying proposals for the formation and maintenance of an Australian flotilla.	171



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
1908.					
164	To Admiralty ...	Australia	January 28	Transmits copy of No. 163, and copies of papers on the naval defence of Australia recently laid before the Commonwealth Parliament.	172
165	To the Governor-General.	Australia, Telegram.	January 30	States that further consideration of the points raised in No. 160 is required, but that the matter will be expedited as much as possible.	172
166	Admiralty ...	Australia, New Zealand.	February 10	Submits views on the points raised in No. 161 with regard to the proposed revision of the Australian Naval Agreement.	172
167	To the Governor-General.	Australia, 46.	February 11	States that the speech of the Prime Minister on defence enclosed in No. 162 has been read with much interest, and that copies have been communicated to the Admiralty and Army Council.	174
168	Ditto ...	Australia, 53.	February 14	Transmits copy of No. 166 ...	175
169	To the Governor ...	New Zealand, 24.	February 14	Transmits copy of Nos. 160, 163, and 168	175
170	The Governor-General.	Australia, Telegram.	(Rec. Apr. 1.)	Reports that Ministers require information on certain points before replying to No. 168.	175
171	The Governor ...	New Zealand, 13.	March 17 (Rec. Apr. 21.)	Forwards copy of a Memorandum from the Prime Minister stating that the New Zealand Government propose, unconditionally, to increase the subsidy to the Imperial Navy from £40,000 to £100,000 per annum.	176
172	To the Governor-General.	Australia, Telegram.	April 21	States, in reply to No. 170, that the matter was referred at once to the Admiralty, but that there may be some further inevitable delay in sending a reply.	176
173	To the Governor ...	New Zealand, Telegram.	April 27	States that the proposal in No. 171 will be communicated to the Admiralty and expresses appreciation of the action taken and the cordial and generous terms of the Prime Minister's memorandum.	177
174	To the Admiralty...	New Zealand.	April 27	Transmits copies of Nos. 171 and 173, and proposes to express to the New Zealand Government the satisfaction of His Majesty's Government.	177
175	Admiralty ...	New Zealand.	May 27	Expresses appreciation at the increased contribution from New Zealand and readiness to co-operate in any arrangement in substitution for the agreement.	177
176	Ditto ...	Australia	May 29	Replies to points raised in No. 170; and states that a scheme will be elaborated as nearly as possible on the lines proposed by the Australian Premier.	178

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
1908.					
177	To the Governor ...	New Zealand, Telegram.	May 29	Conveys satisfaction of His Majesty's Government at the decision to increase the contribution to naval defence and to leave the disposition of the fleet to the Admiralty.	179
178	To the Governor-General.	Australia, 170.	May 29	Transmits copy of No. 176 ...	179
179	To the Governor-General.	Australia, 172.	May 29	Transmits copies of Nos. 171, 173, and 177.	179
180	To the Governor ...	New Zealand, 90.	May 29	Transmits copies of Nos. 170, 172, 176, and 178.	180
181	Ditto ...	New Zealand, 92.	May 29	Transmits copy of No. 175 and adds that a copy of the correspondence is being sent to the Governor-General of Australia for the information of Ministers.	180
182	To the Governor-General.	Australia, Telegram.	June 5	Informs him, in reply to No. 170, that Admiralty are drafting a scheme based on the views of his Government, but some time must elapse before it can be ready.	180

## XV. Naval and Military Defence, Cape and Natal.

1907.					
183	Admiralty ...	Cape of Good Hope, Natal.	June 3	Reports discussion of the draft Cape Naval Volunteer Bill with Cape Ministers during their visit to England, and encloses copy as revised by the Legal Advisers to the Admiralty: proposes, in the circumstances indicated, to await a communication from the Colonial Government before taking the further steps necessary.	181
184	To the Governor ...	Cape of Good Hope, 94.	June 14	Transmits copy of No. 183 ...	181
185	The Governor ...	Cape of Good Hope, 322.	October 26 (Rec. Nov. 16.)	Encloses copy of a minute from Ministers stating that they propose to re-introduce the revised Bill in the next session of Parliament, and that members of the force have unanimously signed an agreement in the terms indicated, and enquiring whether H.M.S. "Odin" can be placed at the disposal of the Cape Colonial Division of the Volunteer Reserve on the terms stated.	182
186	To Admiralty ...	Cape of Good Hope.	November 28	Transmits copy of No. 185 and enquires whether the request with respect to H.M.S. "Odin" can be acceded to.	183
187	Ditto ...	Natal	December 17	Transmits copy of an Act to permit the enrolment of Naval Volunteers, and proposes to sanction the Act.	184



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
1908.					
188	Admiralty ...	Cape of Good Hope, Natal.	January 3	Regrets, in reply to No. 186, that they cannot accede to the proposal to place H.M.S. "Odin" at the disposal of the Cape Naval Volunteers until the necessary legislation is passed.	184
189	Ditto ...	Cape of Good Hope, Natal.	January 3	Points out that the Act enclosed in No. 187 goes beyond the terms of the original Bill, and requests, before agreeing thereto, to be informed of the full scope of the scheme contemplated by the Natal Government, and whether it is proposed to consider the question of a flotilla of destroyers or submarines for coast defence.	184
190	The Governor ...	Natal, 223.	December 24, 1907. (Rec. Jan. 18, 1908.)	Requests, in accordance with the minute enclosed, that the Admiralty may be asked to set aside H.M.S. "Odin" for the training of volunteers, and requests that any necessary legislation may be introduced into the Imperial Parliament when opportunity occurs.	186
191	To Admiralty ...	Natal, Cape of Good Hope.	January 28	Transmits copy of No. 190 and enquires whether steps can be taken for setting aside a vessel for training purposes, even though the undertaking on behalf of the Cape Government has not yet been fully carried out.	187
192	Admiralty ...	Natal, Cape of Good Hope.	February 20	Points out, in reply to No. 191, that there is as yet no common ground on which the Admiralty can negotiate with the Natal and Cape Governments, and that the "Odin" is virtually at the disposal of the Cape Naval Volunteers, but she must for the present remain at Simon's Town, and volunteers desiring to undergo training should proceed there.	188
193	To the Governor ...	Natal, 21.	February 22	Transmits copy of No. 192, and enquires whether it is possible for Natal Volunteers to take advantage of the suggestion to proceed to Simon's Town for training.	189
194	The Governor ...	Cape of Good Hope, Telegram, 1.	May 17 (Rec. May 17.)	Reports that Ministers are prepared to introduce the Naval Volunteers Bill next session subject to the defraying of all expenditure from the £50,000 naval contribution; submits clause proposed for insertion in the Bill and requests early reply.	189
195	To Admiralty ...	Cape of Good Hope.	May 22	Transmits, with remarks, copy of No. 194, and observes that Lord Crewe would be glad to learn that the Admiralty are prepared to accept these proposals.	189
196	The Governor ...	Natal, 67.	April 30 (Rec. May 23.)	States that replies to No. 193 are being held over pending action in Cape Colony with respect to legislation to give effect to the Admiralty offer to Dr. Smartt and Mr. Moor.	190

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
1908.					
197	The Governor ...	Cape of Good Hope, Secret.	May 6 (Rec. May 23.)	Reports further on the question of disbandment of the Naval Volunteers and the continuance of the Colonial contribution of £50,000 to the Imperial Navy.	190
198	Admiralty ...	Natal, Cape of Good Hope.	May 30	Expresses opinion that it is not open to the Admiralty to object to the proposal of the Cape Government that expenditure connected with the Naval Volunteer Force should be defrayed out of the annual contribution of £50,000, and requests that the Cape and Natal Governments should put forward the arrangements they propose; adds that Admiralty co-operation must be limited to such assistance as the circumstances of the Naval Service may permit.	191
199	The Governor ...	Cape of Good Hope, 106.	May 17 (Rec. June 6.)	Transmits copy of the Minute from Ministers on which No. 194 was based.	192
200	Ditto ...	Cape of Good Hope, Secret.	May 17 (Rec. June 6.)	Refers to No. 199 reporting decision of Ministers to maintain the Naval Volunteers if the cost of maintenance may be charged against the naval contribution.	193
201	To the Governor ...	Cape of Good Hope, Telegram 2.	June 10	Intimates general concurrence of the Admiralty in the proposal made in No. 194; adds that a despatch containing the Admiralty's observations will follow by mail.	193
202	Ditto ...	Cape of Good Hope, 116.	June 19	Conveys substance of No. 198, and states that copies of Nos. 194 and 201 and of this despatch are being sent to the Governor of Natal for the information of Ministers.	193
203	Ditto ...	Natal, 101.	June 19	Acknowledges receipt of No. 196 and transmits copies of Nos. 194, 201, and 202.	194

## XVI. Profits on Silver Currency and Decimal Coinage.

1907.					
204	The Governor-General.	Australia, 156.	July 3 (Rec. Aug. 6.)	Forwards copy of a despatch from the Prime Minister on the subjects of the terms of redemption of worn gold coin and the concession in regard to subsidiary coinage offered by His Majesty's Government.	194
205	Treasury ...	Australia.	December 13	Reports arrangements being made ...	195
206	To the Governor-General.	Australia, 320.	December 18	Transmits, with remarks, copy of No. 205 and enquires whether the view expressed in Governor-General's despatch of March 14th, 1905, as to the desirability of the new coinage being introduced on a decimal basis, is adhered to.	196



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
1908.					
207	To the Governor-General and Governors.	Canada, 47. Cape of Good Hope, 11. Natal, 8. Transvaal, 23. Orange River Colony, 9. New Zealand, 14. Newfoundland, 10.	January 30	Transmits copies of Nos. 204, 205, and 206.	197
208	The Governor-General.	Australia, Telegram.	(Rec. Feb. 24.)	States that the proposals in No. 206 are not understood, and enquires whether they mean that the British Government will withdraw and pay face value for all British token coins now circulating in Australia.	197
209	Treasury ...	Australia.	March 27	Refers to Nos. 205 and 208 and explains offer of His Majesty's Government as regards redemption of British token coins and issue of new Australian silver coinage.	197
210	To the Governor-General.	Australia, 118.	April 3	Transmits copy of No. 209 and of an Order in Council providing for the exchange of light gold coins at Branches of the Royal Mint.	198
211	To the Governor-General and Governors.	Canada, 195. New Zealand, 57. Newfoundland, 61. Cape, 62. Natal, 54. Transvaal, 89. Orange River Colony, 41.	April 10	Transmits copy of an Order in Council providing for the exchange of light gold coins at Branches of the Royal Mint.	198

## XVII. Stamp Duties upon Colonial Securities.

1908.					
212	The Governor ...	New South Wales, 54.	May 18 (Rec. June 29.)	Transmits copy of a Minute from the Premier forwarding copy of, and supporting a resolution passed at the recent Conference of Prime Ministers at Melbourne urging the abolition of stamp duties upon issues of all Colonial Government Securities.	199

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
XVIII. Copyright.					
1907.					
213	The Governor ...	New Zealand, Telegram.	(Rec. April 11.)	Reports that Ministers raise no objection to the action proposed in Secretary of State's despatch Miscellaneous of 11th January.	200
214	Ditto ...	Newfoundland, 57.	April 8 (Rec. April 27.)	Forwards remarks on the subject by the Attorney-General.	200
215	Ditto ...	Natal, 49.	April 8 (Rec. May 4.)	States that before expressing opinion on the draft clauses which it is proposed to insert in literary and artistic copyright bills, Ministers would be glad to have information as to the objections raised by certain colonies to corresponding clauses in the old Bills and as to their present attitude towards the proposed clauses.	201
216	Ditto ...	Cape of Good Hope, 122.	April 25 (Rec. May 18.)	Forwards copy of a Minute from Ministers enclosing a Report by the Attorney-General stating that the clauses which it is proposed to insert satisfy the main objections of his predecessor and pointing out that there are essential differences between these clauses and the Cape Act, No. 46 of 1903.	201
217	To the Governor ...	Natal, Miscellaneous.	May 29	Transmits, in reply to No. 215, copy of a Minute of the Privy Council of the Dominion of Canada, embodying the observations of the Minister within whose province the matter lies.	202
218	The Governor ...	Natal, 156.	September 9 (Rec. Oct. 5.)	Forwards Minute by the Prime Minister in which exception is taken to the proviso to Section (2) of draft Clause A, as over-riding Clause VIII. of the Royal Instructions dated July 20, 1893, together with a copy of the Attorney-General's minute referred to; Ministers decline to discuss the clauses unless the proviso is withdrawn.	204
219	To Board of Trade	Natal	October 14	Transmits copy of No. 218 ...	205
220	Board of Trade ...	—	December 30	Suggests that His Majesty's Government should introduce and pass Lord Monkswell's Bill of 1900 with a proviso that it should not come into operation until the self-governing Colonies had legislated on similar lines and that it should be ascertained unofficially whether Canada would concur in such a course.	205
221	To the Governor ...	Natal, 132.	December 31	Transmits copies of Nos. 213, 214, and 216.	206
222	To the Board of Trade.	—	December 31	Transmits copies of Nos. 213, 214, and 216; states that no reply has been received from Canada or Australia to the Secretary of State's despatch, but that a reminder will be sent if desired; asks for observations on No. 218.	206



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
1908.					
223	The Governor-General.	Australia, 328.	December 24, 1907. (Rec. Jan. 25, 1908.)	Forwards copy of a Memorandum by the Attorney-General of the Commonwealth embodying the views of the Government.	207
224	To Board of Trade	—	January 29	Fears, in reply to No. 220, that no useful purpose would be served by unofficially approaching Canada, but states that, if desired, an official communication will be made.	208
225	Board of Trade ...	—	March 18	Raises objections to placing the proposal for general copyright legislation before the Canadian Government officially and considers that any attempt to deal comprehensively with copyright should be postponed: suggests the calling of a subsidiary Colonial Conference to deal with specific points requiring amendment.	208
226	To the Governors-General and Governors.	Australia, 95, New Zealand, 45, Canada, 149, Newfoundland, 43, Cape, 49, Orange River Colony, 33, Transvaal, 71, Natal, 38.	March 20	Transmits copy of a note from the German Ambassador inviting His Majesty's Government to send representatives to an International Copyright Conference at Berlin on 14th October, and related papers: awaits observations of Ministers on the suggested amendments to existing convention, and states nature of instructions to be given to British delegates.	209
227	To Board of Trade	—	March 24	Fears that at any such Conference as proposed in No. 225, it would be difficult to avoid raising the constitutional questions involved, and requests to be furnished with a memorandum showing the exact proposals which it is suggested should be laid before the Conference.	212
228	Board of Trade ...	—	April 11	Transmits memorandum of proposals which it is suggested might be laid before the proposed subsidiary Conference.	212
229	To Board of Trade...	—	May 7	Fears that the constitutional question will inevitably be raised, and enquires whether it is still desired that a Conference should take place.	213
230	The Governor ...	Natal, 68.	April 30 (Rec. May 23.)	Reports that the procedure suggested in No. 226 will be acceptable to his Ministers.	213

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
1908.					
231	The Governor ...	Cape of Good Hope, 89.	May 5 (Rec. May 23.)	Transmits copy of a Minute from Ministers stating that procedure proposed in No. 226 is acceptable.	214
232	Ditto ...	Transvaal, 140.	May 11 (Rec. May 30.)	Ditto ditto... ..	214
233	Board of Trade ...	—	June 2	Adheres to the view that the proposed subsidiary Colonial Conference on copyright should take place, and requests that steps may be taken to bring to the notice of the Dominion Governments the alterations proposed in the law, with a view to subsequent discussion.	215
234	The Governor ...	Orange River Colony, 70.	May 25 (Rec. June 13.)	States, in reply to No. 226, that the question as to the position to be taken up by the British delegates to the Berlin Conference is receiving attention and that a further communication will be made.	215

## XIX. Importation of live cattle from Canada.

1907.					
235	To Board of Agriculture and Fisheries.	—	June 8	Draws attention, with reference to a question in the House of Commons regarding the prohibition of the importation of live cattle from this country, to the remarks of Sir Wilfrid Laurier made at the Colonial Conference, and requests an expression of the Board's views upon the matter.	216
236	Board of Agriculture and Fisheries.	—	July 8	Suggests that the Canadian Government be informed that His Majesty's Government are unable for the reasons stated to propose any amendment of the existing law.	216
237	To the Governor-General.	279	July 25	Transmits copy of No. 236 for information of Ministers.	219

## XX. Radio-telegraphic Convention of 1906.

1907.					
238	To the Governors-General and Governors.	Australia, Canada, Newfoundland, New Zealand, Cape, Natal, Transvaal, Miscellaneous.	July 31	States that His Majesty's Government have decided to ratify the Radio-telegraphic Convention and asks whether the respective Colonies desire to adhere to it.	219



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
<b>1907.</b>					
239	To the Governor ...	Orange River Colony, Miscellaneous.	July 31	States that His Majesty's Government have decided to ratify the Radio-telegraphic Convention and asks that the question of the Colony's adherence may be brought before Ministers.	220
240	The Governor ...	Cape, 273.	September 14 (Rec. Oct. 5.)	Transmits Minute from Ministers expressing the opinion that the Natal Government should notify adherence to the Convention in concert with the Cape; he is in communication with the Governor of Natal and will report in due course on the result.	220
241	The Deputy - Governor.	Transvaal, 370.	September 16 (Rec. Oct. 5.)	Transmits Minute from Ministers expressing their desire to adhere to the Convention, and to receive any notifications which may be issued from the International Telegraphic Bureau.	221
242	The Governor ...	Orange River Colony, 77.	October 7 (Rec. Oct. 26.)	Acknowledges No. 239; he will bring the question to the notice of Ministers.	221
243	Ditto ...	Natal, 181.	October 10 (Rec. Nov. 2.)	States that the Natal Government wishes to adhere to the Convention, and has agreed to the suggestion of Cape Ministers that the two Colonies should adhere in concert.	222
244	Ditto ...	Cape, 306.	October 14 (Rec. Nov. 2.)	Forwards copy of despatch from the Natal Government accepting the suggestion of Cape Ministers that the two Colonies should notify their adherence to the Convention in concert.	222
245	Ditto ...	Cape, 336.	November 9 (Rec. Nov. 30.)	Transmits Minute from Ministers requesting the notification of the joint adherence of Natal and the Cape to the Convention, and stating their intention of applying at the next Conference for the allocation of a vote to the Cape and Natal.	223
246	The Governor General.	Canada, 468.	November 27 (Rec. Dec. 9.)	Transmits Minute of the Privy Council intimating the intention of his Government to adhere to the Convention, and stating that the legislation necessary to give effect to its provisions is under consideration.	224
<b>1908.</b>					
247	The Governor ...	New Zealand, 100.	December 3, 1907. (Rec. Jan. 11, 1908.)	States that his Government proposes to adhere to the Convention, but not to the additional undertaking of 3rd November, 1900, and reserves the power of designating certain coast stations which shall be exempt from the obligations imposed by Article 3 of the Convention.	224
248	The Governor-General.	Australia, Telegram.	(Rec. Jan. 22)	States that Prime Minister will be glad if steps can be taken to signify the adhesion of the Australian Federation to the Convention.	225
249	The Governor ...	Orange River Colony, 134.	January 13 (Rec. Feb. 1.)	Reports opinion of Ministers that the Colony should not join the Convention at present.	225

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
<b>1908.</b>					
250	To the Governor ...	Transvaal, 32.	February 5	States, in reply to No. 241, that each Administration, upon adhesion to the Convention, will be entitled to receive copies of the official publications; transmits copies of the four notifications already issued.	225
251	The Governor ...	Newfoundland, 38.	March 9 (Rec. Mar. 24.)	Transmits copy of letter from his Prime Minister promising a reply to No. 238 when a communication has been received from the Marconi Wireless Telegraph Company of Montreal.	226
252	To the Governors...	Cape, 83. Natal, 73. Transvaal, 124.	May 16	Proposes to ratify the Radio-telegraphic Convention before July 1st and to notify the adhesion of all British Colonies, Possessions, and Protectorates, with the exception of Newfoundland and the Orange River Colony: requests to be furnished with copies of the return made to the International Bureau under Article XXXVIII. of the Service Regulations and of any modifications, additions, and notifications: submits views on the questions of voting and representation of South African Governments.	226
253	To the Governor-General.	Australia, 153.	May 15	Proposes to ratify the Convention before July 1st and to notify the adherence of all British Colonies and Protectorates except Newfoundland and Orange River Colony.	227
254	To the Governor-General and Governor.	Canada, 265. Orange River Colony, 51.	May 16	Ditto ...	228
255	To the Governors...	Newfoundland, 71. New Zealand, 76.	May 19	Ditto...	228
256	The Governor ...	Newfoundland, 62.	May 15 (Rec. May 25.)	Transmits copy of a letter from the Prime Minister stating that Ministers do not desire to adhere to the Radio-telegraphic Convention at the present time.	228

## XXI. Voting of Colonies at International Conferences.

<b>1908.</b>					
257	Count P. Metternich to Sir E. Grey.	—	August 28	Encloses copies of the Protocol of a preliminary discussion on the subject of the International Congress on Electrical Units: the German Government claim that only one vote should be given to the British Empire, including all the British possessions, but would consent to a vote being given both to India and Australia, in addition to Canada.	229



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
<b>1907.</b>					
258	To Foreign Office...	—	May 22	Proposes, in reply to the enquiry of the American Ambassador as to the voting power of the Colonies at the forthcoming Conference on Electrical Units and Standards, that a vote should be claimed for Australia, Canada, and India.	230
<b>1908.</b>					
259	Foreign Office ...	—	April 2	Transmits copy of a Note from the German Ambassador agreeing to the proposal that at the National Electrical Units Conference, Australia, Canada, and India should each have a vote, without prejudice to the question of Colonial representation at international conferences.	231
260	To the Governors-General.	Canada, 193. Australia, 121.	April 9	Reports acceptance by the German Government of the proposal that the Government of the Commonwealth, Canada, and India should have one vote at the International Electrical Units Conference.	231

## XXII. Marriage Facilities.

<b>1907.</b>					
261	The Registrar-General.	—	April 12	Transmits, with remarks, copy of a memorandum on existing facilities for marriage in the United Kingdom and self-governing Colonies and Possessions, with suggestions thereon.	232
262	To the Governors-General and Governors.	Australia, Canada, Newfoundland, Cape, Natal, Victoria, New South Wales, South Australia, Western Australia, Queensland, Tasmania, New Zealand, Miscellaneous.	June 20	Transmits copy of No. 261 and requests views of Ministers and (Canada) of Provincial Governments: states (Australia) that the letter has been referred to the various State Governments for an expression of their views.	243
263	The Governor ...	Western Australia, 27.	August 26 (Rec. Sept. 23.)	Transmits, in reply to No. 262, copy of a memorandum by the Registrar-General.	243
264	Ditto ...	Tasmania, 32.	August 26 (Rec. Sept. 30.)	Transmits, in reply to No. 262, copy of a letter from the Attorney-General stating that every facility is afforded by "The Marriages Act 1895."	245
265	Ditto ...	Tasmania, Confidential.	August 26 (Rec. Sept. 30.)	Suggests amendment in the short title to the proposed Bill for providing facilities for marriages between British subjects in the United Kingdom and the Colonies by the omission of the word "Colonials."	245

Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
<b>1907.</b>					
266	The Governor ...	New Zealand, 70.	September 4 (Rec. Oct. 21.)	Transmits copy of a Memorandum by the Registrar-General, and states that, in the opinion of Ministers, no action on the part of the Colony is necessary pending Imperial legislation.	246
267	Ditto ...	New South Wales, 91.	October 3. (Rec. Nov. 11.)	Forwards copy of a report by the Registrar-General, and states that Ministers have no objection to the Bill other than the title.	247
268	Ditto ...	Cape of Good Hope, 323.	October 30 (Rec. Nov. 16.)	Transmits, in reply to No. 262, copy of a Minute from Ministers, stating that certificates of publication of banns outside the Colony dispense with the necessity for publishing within the Colony.	248
269	The Lieutenant-Governor.	Victoria, 56.	October 23 (Rec. Nov. 30.)	Forwards, in reply to No. 262, copy of a report by the Government Statist, stating that no further facilities are necessary in cases of British subjects outside Victoria coming to Victoria to marry residents.	249
270	The Governor ...	Natal, 201.	November 7 (Rec. Nov. 30.)	Reports opinion of Ministers that present facilities are adequate and that they see no necessity for the introduction of the legislation proposed.	249
<b>1908.</b>					
271	Ditto ...	Queensland, 47.	November 28, 1907. (Rec. Jan. 6, 1908.)	Transmits copy of a letter from the Premier quoting extracts from a Report received from the Registrar-General.	250
272	Ditto ...	South Australia, 79.	December 12, 1907. (Rec. Jan. 11, 1908.)	Reports opinion of Ministers that no necessity exists for legislation increasing facilities for marriages celebrated in the State, and transmits Minutes from the Registrar-General, the Chief Justice, and the Crown Solicitor on the subject.	251
273	To the Governor-General and Governor.	Canada, 60, Newfoundland, 16.	February 7	Asks for reply to No. 262 ...	254
274	To the Governors...	Transvaal, 34, Orange River Colony, 14.	February 7	Transmits copy of No. 261, and requests consideration of Ministers on the questions raised.	254
275	The Governor-General.	Australia, 31.	February 5 (Rec. Mar. 7.)	Reports that Ministers are of opinion that it is very undesirable that Great Britain should legislate with respect to marriages in Australia and that it is not apparent to them that any additional facilities are necessary.	255



Serial No.	From or to whom.	Despatch No., &c.	Date.	Subject.	Page.
			1908.		
276	The Registrar-General.	—	March 17	Forwards memorandum of observations on replies received from Colonial Authorities respecting facilities for marriage.	255
277	The Governor ...	Orange River Colony, 42.	March 16 (Rec. Apr. 4.)	Reports that Ministers are in favour of the draft Bill affording improved facilities for marriage, but consider that no legislation should be instituted in the Colony until an Imperial Act has been passed.	257
278	To the Registrar-General.	—	April 23	Acknowledges receipt of No. 276, and transmits copy of No. 277; adds that the Secretary of State will defer any expression of his views until replies have been received from all the other Colonies.	258
279	The Governor ...	Transvaal, 120.	April 18 (Rec. May 9.)	Forwards minute from Ministers stating that they have no objections to offer to the proposed legislation indicated in the draft Bill enclosed in No. 274.	258
280	To the Governors-General and Governors.	New Zealand, 95. Canada, 215. Newfoundland, 81. Australia, 177. Victoria, 29. New South Wales, 46. Queensland, 34. Tasmania, 20. Western Australia, 24. South Australia, 32. Cape, 103. Natal, 91. Transvaal, 140. Orange River Colony, 62.	June 5	Transmits copies of replies received from the various colonies to No. 262.	258

## CORRESPONDENCE

RELATING TO THE

## IMPERIAL CONFERENCE.

## I.

(Resolution I.)

Imperial Conference Secretariat.

41111

No. 1.

TRANSVAAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 23rd November, 1907.)

(No. 442.)

MY LORD,

Governor's Office, Johannesburg, 4th November, 1907.

WITH reference to your Circular despatch of the 21st September\* on the subject of the re-organisation of the Colonial Office, I have the honour to enclose, for your information, a copy of a Minute from Ministers, in which they express their views on the proposals made.

2. In accordance with the request of Ministers, I have transmitted a copy of this minute to the Governments named in the last paragraph thereof.

I have, &amp;c.,

SELBORNE,

Governor.

Enclosure in No. 1.

(Minute, No. 559.)

Prime Minister's Office, Pretoria, October 26, 1907.

Ministers have given careful consideration to the Circular despatch of the Right Honourable the Secretary of State for the Colonies, dated 21st September, 1907, forwarded under cover of His Excellency the Governor's Minute, No. 88/1, of the 17th October, in reference to the re-organisation of the Colonial Office, whereby a separate branch of that Office will be constituted in respect of the business of the self-governing Colonies, and a permanent Secretariat created in connection with the Imperial Conference. Ministers wish to express their great gratification with the alterations proposed in the Colonial Office, and feel sure that they will have the happiest results.

In paragraph 5 of the despatch the Right Honourable the Secretary of State for the Colonies makes the suggestion that in regard to all matters of routine connected with the Conference, the Permanent Secretary shall correspond direct with Colonial Ministers, such correspondence in all cases passing under flying seal between the Secretary of State and the Governor-General or Governor, and an expression of opinion is then invited in regard to the High Commissioner or Agent-General of any Colony acting as an alternative channel of communication.

\* [Cd. 3795], November, 1907.



Ministers are strongly of opinion that this alternative course suggested by the Secretary of State is the preferable one, and that the Secretary to the Conference should address Colonial Ministers through their London representatives.

At the last Conference the Prime Minister of the Transvaal urged that more important functions should be assigned to the permanent Colonial representatives in London in regard to the work of the Conference; and Ministers consider that the alternative suggested by the Secretary of State is one means of giving effect to this representation with which they are in full accord.

If in this and other ways the High Commissioners and Agents-General of the Colonies were brought into more constant touch with the work of the Conference, a twofold advantage would be secured: the Permanent Secretary of the Conference would have the benefit of consulting with and being advised by experts in Colonial affairs, who are in the confidence of their Governments, and, on the other hand, the Colonial Governments would receive communications through their advisers on the spot and without special reference to them, and consequent loss of time, obtain their views on matters referred to them. And there would be the additional advantage that in this way the position of the High Commissioners and Agents-General would become more clearly defined as the accredited political representatives of their Governments to the Colonial Office, and the Colonial Governments would come into closer and more actual relation with the Colonial Office.

Ministers have the honour to request His Excellency to forward copies of this minute to the Governments of Cape Colony, Natal, Australia, New Zealand, Canada, and Newfoundland, for their information.

LOUIS BOTHA.

41978

No. 2.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 30th November, 1907.)

(No. 332.)

MY LORD, Government House, Cape Town, 9th November, 1907.  
I DULY communicated to Ministers your Lordship's despatch "Miscellaneous," of 21st September,\* giving an outline of your proposals for rearranging the work of the Colonial Office in the manner described at the recent Colonial Conference.

2. I have now received from Ministers a minute, of which a copy is enclosed, in which they express their appreciation of the promptitude with which effect has been given to the changes, and their desire to co-operate in every way in making the concessions now granted a success, thus paving the way to the ultimate establishment of an Imperial Department.

3. It will be noted that, in discussing the details of the re-organisation, Ministers suggest that a Conference should be held with the Agents-General, with a view to drawing up proposals for the establishment of their relations with the Secretariat of the Imperial Conference, for subsequent consideration by the Governments represented.

I have, &c.,

WALTER HELY-HUTCHINSON.

Enclosure in No. 2.

MINISTERS to GOVERNOR.

(Minute. No. 1/622.)

Prime Minister's Office, Cape Town, November 5, 1907.

Ministers have the honour to acknowledge the receipt of His Excellency the Governor's Minute, No. 766, of the 15th October, 1907, forwarding several copies of a printed despatch addressed by the Right Honourable the Secretary of State for the Colonies, intimating to the various Governments the steps adopted by him for

\* [Cd. 3795].

the re-arrangement of the work and staff of the Colonial Office, as indicated in the resolution adopted at the late Conference.

Ministers beg to inform His Excellency that they appreciate the promptness with which the Secretary of State has given effect to these changes, and welcome them as a step in the direction of establishing a more complete organisation which the representatives of this Colony, in conjunction with other representatives, so strongly urged upon the consideration of the Conference.

Ministers will, of course, by sympathetic co-operation, endeavour to assist in every possible way in securing the full advantage of the improved machinery now provided, but, while regarding the present arrangement as an advance towards the ultimate creation of an Imperial Department suitable and adequate to co-ordinating the organisations of a widely-spread and fast-growing Empire, they can only regard the present as a temporary expedient.

In regard to the details of the Secretary of State's reorganisation, Ministers observe that, although no provision is made for direct communications to pass between Heads of Colonial Governments and some member of the British Government specially entrusted with the charge of the Secretariat, communications may be directed to the permanent official appointed as Secretary. This arrangement will no doubt be helpful in avoiding unnecessary delays in correspondence on matters of routine connected with the Imperial Conference.

Ministers, moreover, observe with much satisfaction that the Secretary of State is desirous of establishing close and harmonious relations between the Agents-General in London and the Secretariat, and desires to be furnished with suggestions with a view to that end. In this connection, Ministers are of opinion that it would be desirable for a Conference to be held by the Secretary of the Secretariat and the Agents-General with a view to drawing up proposals for subsequent consideration by the Governments represented.

Ministers are pleased to note that the Secretary of State has recognised the important bearing which matters of trade and commerce have in drawing closer the bonds of union between the mother country and the dominions beyond the seas, and accordingly has made provision for the Secretariat to be closely associated with the Commercial Intelligence Committee.

In conclusion, Ministers would again express their desire to co-operate in every way in making the concessions granted by the Imperial Government a success, and so paving the way to the ultimate establishment of an Imperial Department.

L. S. JAMESON.

42018

No. 3.

ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 30th November, 1907.)

(No. 101.)

Governor's Office, Bloemfontein,  
Orange River Colony, 11th November, 1907.

MY LORD,  
I HAVE the honour to acknowledge the receipt of your Lordship's despatch "Miscellaneous," of the 21st September,\* relating to the proposed reorganisation of the Colonial Office, and its division into three branches or departments, which will deal respectively with the self-governing Colonies, the Crown Colonies and Protectorates, and general business.

I have, &c.,

HAMILTON GOOLD-ADAMS,

Governor.

\* [Cd. 3795].



44639

No. 4.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 23rd December, 1907.)

(No. 285.)

MY LORD, Governor-General's Office, Melbourne, 20th November, 1907.  
 REFERRING to Your Lordship's despatch, "Miscellaneous," dated 21st September, 1907,\* relative to alterations in the arrangements for conducting the work of the Colonial Office so far as self-governing colonies are concerned, I have the honour to transmit, herewith, for Your Lordship's consideration, a copy of a despatch which has been addressed to me by my Prime Minister upon this subject.

I have, &c.,  
 NORTHCOTE,  
 Governor-General.

Enclosure in No. 4.

(P.M. 07/4680.)

MY LORD, Melbourne, 19th November, 1907.  
 I HAVE the honour to inform Your Excellency that the circular despatch of the Secretary of State for the Colonies, dated 21st September, 1907, informing your Ministers of the office rearrangement made in part performance of his undertaking given at the Conference in April last, has been considered.

2. So far as the Dominions or their business are concerned, this despatch amounts merely to a suggestion that "on all matters of routine" the Secretary to the Imperial Conference may, under certain conditions, exchange letters with Ministers of the Dominions. Such an alteration of departmental practice appears too minute to call for attention.

3. The resolution cited in the despatch really relates to a subject of vast importance, viz., the establishment of a system by which the several Governments of the Dominions are to be kept in touch with the British Government and with each other upon all matters of moment. This has not yet been dealt with: indeed all that appears to have been accomplished is that a sub-department has been renamed.

4. The statement made by the Secretary of State in the House of Lords, attached to the despatch seems, however, to require a brief comment.

5. It follows from the nature of the Conference that any of its resolutions to be effective must be unanimous. The resolution quoted in the despatch embodies one of the inevitable compromises. It was accepted by some Governments represented, in order that a kind of provision might be made for promoting more intimate relations between the self-governing portions of the Empire.

6. So far as your Ministers are concerned, their original submission was:—

"That it is desirable to establish an Imperial Council, to consist of representatives of Great Britain and the self-governing Colonies, chosen *ex officio* from their existing administrations.

"That the objects of such Council shall be to discuss at regular Conferences matters of common Imperial interest, and to establish a system by which members of the Council shall be kept informed during the periods between the Conferences in regard to matters which have been, or may be, subjects for discussion.

"That there shall be a permanent secretarial staff charged with the duties of obtaining information for the use of the Council, of attending to the execution of its resolutions, and of conducting correspondence on matters relating to its affairs.

"That the expenses of such a staff shall be borne by the countries represented on the Council in proportion to their populations."

\* [Cd. 3795].

7. The above proposal differs from the compromise finally accepted by this Government in the following important particulars:—

- (a) It contemplated an organisation entirely separated from the Colonial Office.
- (b) It proposed that the officers should be controlled by or on behalf of the Conference.
- (c) It provided that the expenses of the staff should be borne by the countries represented.

8. Your Ministers are unable to concur in the opinion of the Secretary of State that the Secretariat proposed by them was in the slightest degree inconsistent with the maintenance of Ministerial responsibility in any of the Governments concerned. The misapprehensions leading to such a misconception would have been removed had not the refusal of the Secretary of State to accept their proposition in any form placed the question aside for the time being.

9. Your Ministers defer their suggestions as to the position of the High Commissioner in relation to the Secretariat Branch of the Dominion Sub-Department of the Colonial Office until they are informed of the intentions of the Government of the United Kingdom in respect to the further measures demanded for carrying out the very important resolution which, so far as a particular office arrangement is concerned, is the subject of the despatch of 21st September. By that time it is hoped that an Act creating the office of High Commissioner for the Commonwealth will have been passed.

I have, &c.,  
 ALFRED DEAKIN.

Governor-General  
 His Excellency  
 The Right Honourable  
 Lord Northcote, G.C.M.G., G.C.I.E.,  
 &c., &c., &c.

1258

No. 5.

NATAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 11th January, 1908.)

(No. 219.)

MY LORD, Government House, Pietermaritzburg,  
 Natal, 21st December, 1907.  
 I HAVE the honour to report that I have been requested by Ministers here to express their thanks for the information contained in Your Lordship's "Miscellaneous" despatch, dated the 21st September, 1907,\* on the subject of the rearrangement of the work and staff of the Colonial Office so as to constitute a separate branch of that office dealing with the self-governing Colonies, and to establish a permanent Secretariat charged with duties connected with the periodical Conferences in which these Colonies take part.

2. So far as Natal is concerned, Ministers feel that the Agent-General in London should be brought into close touch with matters appertaining to the affairs of the Conferences, and are of opinion that the work of the Secretariat will be facilitated if the alternative channel of communication suggested in Your Lordship's despatch be adopted.

I have, &c.,  
 M. NATHAN.

\* [Cd. 3795].



4352

No. 6.

## NEW SOUTH WALES.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 9.20 a.m., 7th February, 1908.)

TELEGRAM.

I have been asked by Prime Minister to cable request that reorganization of Colonial Office for Dominions be not settled till views of various States, which are being forwarded, reach you.—RAWSON.

9352

No. 7.

## NEW SOUTH WALES.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 16 March, 1908.)

[Answered by No. 8.]

(No. 12.)

MY LORD, State Government House, Sydney, 1 February, 1908.

WITH reference to your Lordship's despatch, "Miscellaneous," of the 25th [? 21st] September last,\* on the subject of the reorganization of the Colonial Office, I have the honour to enclose herewith copy of a minute which I have received from my Premier in reference to provision being made for representation directly by the States to the Secretary of State for the Colonies.

2. Upon perusal of the minute, it will be observed that Ministers assume from the context of your Lordship's despatch and from the whole trend of the discussion at the Colonial Conference that, in the case of Australia, it is intended that the Dominions Department will communicate with the Commonwealth Government, and not with the component States, and that representations upon matters of State interest presumably are intended to pass through the channel of the Commonwealth.

I have, &amp;c.,

HARRY H. RAWSON,

Governor.

Enclosure in No. 7.

## MINUTE FOR HIS EXCELLENCY THE GOVERNOR.

When it was proposed to convene the Colonial Conference which met in London early last year, requests were made on behalf of the various States of Australia for direct representation at the Conference. Reasons were advanced by each of the State Governments concerned which seemed to them to be weighty, but which unfortunately did not find favour with the Secretary of State for the Colonies, for an intimation was received that the States of Australia, which are members of the Commonwealth, would not be entitled to take part in the deliberations of the Conference.

In the despatch of Lord Elgin upon this subject to His Excellency the Governor of South Australia, dated 16th February, 1907, he stated that:—

"The Colonial Conference is intended for the discussion of questions of common interest affecting the relations of the Mother Country and of His Majesty's dominions over the seas."

The discussion was limited to—

"Matters which are now in effect the business of the Commonwealth alone; and even in the case of the very few of these subjects which may be

\* [Cd. 3795].

regarded in whole or in part as still the business of the States, the Commonwealth possesses or may acquire paramount power. His Majesty's Government regret not to be able to arrange for the separate representation of the Australian States at the forthcoming Conference. This decision implies no failure to appreciate the importance of the States or the necessity for inviting and fully considering the opinions of the State Governments within their own spheres, but it appears to His Majesty's Government to be one to which no alternative could be found without disregarding the scheme of Commonwealth legislation, and the fundamental principles on which this idea of the Colonial Conference is based."

Although Ministers entertained strong and unanimous views on this subject, they loyally submitted to their exclusion in the hope that matters of purely State interest would be avoided, and nothing would be done to prejudice or curtail the right the States have always enjoyed of approaching the Crown on matters exclusively affecting their interests.

The report of the proceedings, however, indicates that the Conference has transgressed the proper limits of discussion as laid down by Lord Elgin in his despatch to the Governor of South Australia. Subjects have been dealt with which are within the sphere of State jurisdiction. Moreover, proposals since issued with regard to the reconstitution of the Colonial Office tend further, if adopted, to deprive the component States of the Australian Commonwealth of rights which have always attached to them under their constitutions from the Crown. The Premier, therefore, is anxious that further representations should be made to the Secretary of State in support of the rights of New South Wales.

The first resolution adopted by the Conference as to the constitution of the Imperial Conference provided, *inter alia*, for the Prime Ministers of the self-governing Dominions being, *ex officio*, members of the Conference. Further, that it is desirable to establish a system by which the several Governments represented shall be kept informed during the periods between the Conferences in regard to matters which have been, or may be, subjects for discussion, by means of a permanent secretarial staff, charged, under the direction of the Secretary of State for the Colonies, with the duty of obtaining information for the use of the Conference, of attending to its resolutions, and of conducting correspondence on matters relating to its affairs.

In pursuance apparently of this resolution, the Secretary of State for the Colonies has issued a despatch which purports to carry out the intention of the Conference. The proposals embodied in this document, however, will, the Premier respectfully submits, further curtail the undeniable rights of the States of the Commonwealth; and on behalf of the Government of New South Wales he states regret that resolutions were arrived at without an opportunity being afforded of informing the Conference of the views of the State Governments upon this matter.

According to Lord Elgin's despatch it is proposed to divide the Colonial Office into three Departments; one dealing with the self-governing Colonies, to be known as the Dominions Department; a second dealing with the Crown Colonies and Protectorates; and the third the General Department.

It may be assumed from the context and the whole trend of discussion at the Conference that in the case of Australia it is intended that the Dominions Department will communicate with the Commonwealth Government and not with the component States. Thus it would appear that in the Colonial Office, with its three new branches, no provision is made for representation directly by the States to the Secretary of State. Representations upon matters of State interest presumably are intended to pass through the channel of the Commonwealth.

It becomes pertinent to consider the constitution and the powers of future Conferences on the lines indicated by the Secretary of State. In the first place, representation will be allowed to Colonies which enjoy Responsible Government, but are not members of any Federal Union. Subject to the Imperial veto, and the paramount efficacy of Imperial laws, their powers of legislation are almost unlimited. There is then representation from the Dominion of Canada, and again from the Commonwealth of Australia. The above constitute the three main groups of Colonial delegates. The matters which are appropriate to the business of the first class of self-governing Colony include all those powers covered by Statute in Canada or Australia. Moreover, the legislative sphere of the Dominion of Canada is wider



than that of the Commonwealth of Australia. It must happen that many matters of common interest in self-governing Colonies, of which Natal is a type, with the Imperial Government are quite outside the sphere of jurisdiction exercisable under either the Canadian or the Australian Constitution, for the following reasons.

Under the British North America Act certain powers are reserved exclusively to the Provinces; and the Dominion Parliament may make laws in relation to all matters not coming within the class of subjects which are assigned exclusively to the legislatures of the Provinces. On the other hand, the framers of the Constitution of the Australian Commonwealth had before them the experience of Canada and the United States of America, and deliberately declined to follow the precedent of the Canadian Constitution.

Under the Commonwealth of Australia Constitution a compact is established whereby the constituent States surrender to the Commonwealth certain specified powers of legislation which they formerly enjoyed under their respective Constitutions; but such powers as were not parted with definitely remain exclusively with the States. Thus have been established two Sovereign Powers, each possessing within its own sphere full jurisdiction, and each independent of the other. The relationship is aptly described by Sir Samuel Griffith, Chief Justice of the High Court of Australia, in the following words:—

"In considering the respective powers of the Commonwealth and of the States it is essential to bear in mind that each is, within the ambit of its authority, a *Sovereign State*, subject only to the restrictions imposed by the Imperial connection and to the provisions of the Constitution, either expressed or necessarily implied."

In other words, the form of Government is federation, not unification.

Although there are many matters comprised in the jurisdiction of the Commonwealth and also of the Dominion, yet owing to the method adopted in the distribution of powers a large number of the subjects that affect the Dominion Legislature are reserved to the constituent States of the Australian Commonwealth. For instance, railways, debts due by railway companies, canals, public harbours, rivers, and lake improvements, are all the property of Canada. Such matters as these, however, under the Constitution remain the property of the States of Australia. The Federal Government, no doubt, are vested with the control of railways in so far as they are required for the transport of the naval and military services of the Commonwealth; but property in railways can only be acquired by the Commonwealth with the consent of the State concerned, nor may even the construction of railways be entered upon in any State except with the consent of that particular State. Moreover, it is very unlikely that the constituent States of Australia will ever hand over to the Commonwealth their property in harbours, canals, and railways.

Again, Canada is liable by Statute for the debts of each Province existing at the date of Union. But the assumption by the Commonwealth of the debts and liabilities of the Australian States before Federation is optional. State debts contracted since 1900 can only be assumed by the Commonwealth with the consent of the States. The various States of the Commonwealth, both before and since Federation, have been engaged in a policy of developing the interior by means of public works and by affording facilities for settlement on the land. For this purpose it becomes necessary from time to time to borrow money for purely State objects, and such matters as flotation of loans for local works, redemption and conversion of the same, must continue to be of interest to the various State Governments. In this respect their interests are similar to those of the self-governing Colonies properly so called. The Commonwealth of Australia, however, at the present time is not empowered by the Constitution to even discuss the question of future State borrowings; nor can they do so except by direct delegation from the State concerned or by alteration of the Constitution Act. Consequently, in matters of this kind they have no power to bind the States.

Moreover, in Canada the Parliament of the Dominion controls legislation in respect of agriculture in any Province, and immigration into any Province. If there is any conflict of laws, those of the Dominion Legislature prevail. In Australia, agriculture is entirely a matter for the individual States, and the question is closely associated, particularly in New South Wales, with the policy of land settlement and immigration. No doubt the Commonwealth Authority is empowered

to control the conditions under which immigrants may be allowed to land, but once they have landed in New South Wales they become subject to the laws of the State, and to the policy laid down by the Government of New South Wales. Questions as to the class of immigrant, the nature of his vocation, the nationality, the method or degree of financial assistance are all intimately associated with the policy of each individual State whose programme indeed may be in conflict with the views and desires of the Federal Executive; but when the conditions of entry required by the Federal Parliament are complied with, the jurisdiction of the Commonwealth ceases.

The Premier submits with all earnestness that the question of immigration is closely bound up with the State policy which may be entirely opposed to the tendencies of the Commonwealth legislation. In respect of such subjects the Commonwealth cannot speak for or bind New South Wales. This Government is entitled to direct representation, yet it would appear that the States have no voice in such questions, for it is noticed that the despatch above mentioned lays it down that all matters relating to emigration are to be referred to the Dominions Department of the Colonial Office.

Once again the Conference which met last year carried a resolution affirming the desirability of establishing an Imperial Court of Appeal. Under the Constitution of New South Wales a litigant enjoys the privileges of appeal to the Privy Council as of right, under certain conditions, and the right to ask for leave to appeal under other circumstances. The Commonwealth Constitution provides for the establishment of a High Court, but except under certain specified limitations the right of appeal from the Supreme Court of the State to the Privy Council, without passing through the intermediate stage of an appeal to the High Court, is preserved. The proposal for an Imperial Court of Appeal affects resident citizens of New South Wales as involving a change in the Constitution with regard to the ultimate Court of Appeal.

In conclusion, the scope of authority of the various representatives is so diverse that if discussion is limited to subjects on which every member of the Conference is authorised to speak, New South Wales will be deprived of the opportunity of ventilating subjects of interest to themselves and within the purview of their remaining powers of sovereignty. On the other hand, if every representative vote on any resolution that is within the competency of any one member, then this State will be bound in respect of matters over which it retains sovereign power without being heard. It must not be forgotten that the States are entirely independent of the Commonwealth in respect of powers retained under the Constitution. Its dignity and importance and sovereign powers demand that this State should receive treatment in accordance with its Constitutional right, and not be relegated to the position of a parochial council.

C. G. WADE.

Premier's Office,

Sydney, 30 January, 1908.

10209

No. 8.

NEW SOUTH WALES.

THE SECRETARY OF STATE TO THE GOVERNOR.

(Sent 12.45 p.m., 31 March, 1908.)

TELEGRAM.

Your despatch, No. 12, 1st February,\* and letter, 11th February,† I gather that your Ministers have misunderstood intention of my despatch of 21st September, 1907.‡ Please explain to them that the new arrangements in this office do not involve any alteration in the system of direct correspondence with State Governors, but that, on the contrary, it was, and is, intended that all business which has hitherto passed through the State Governors should follow the same channel unless and until there is formal and constitutional authority for a change of system.—ELGIN.

\* No. 7.

† 10209: not printed.

‡ [C.O. 3795.]



10209

No. 9.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Sent 12.45 p.m., 31 March, 1908.)

TELEGRAM.

[Answered by No. 14.]

I have sent Governor, New South Wales, following telegram in reply to his despatch, No. 12, 1st February\* :—

[See No. 8.]

11997

No. 10.

TASMANIA.

THE LIEUTENANT-GOVERNOR to THE SECRETARY OF STATE.

(Received 4 April, 1908.)

(No. 9.)

My LORD, Government House, Hobart, 2nd March, 1908.

My Ministers have had under consideration a minute,† dated the 30th January, addressed by the Premier of New South Wales to His Excellency Sir Harry Rawson on the position of the Australian States with reference to future Imperial Conferences, and to the organization of the Secretariat for these Conferences.

2. It is the firm desire of Ministers to support the contention that the position of Tasmania as a self-governing State, sovereign under the Crown, has not been impaired by federation.

3. The constitutional authority established to decide questions arising between the Commonwealth and the States, viz., the High Court of Australia, has laid down that the Australian States continue to be sovereign States subject only to the restrictions imposed by the Imperial connection, and to the provisions of the constitution, either expressed or necessarily implied. Ministers think that no other conclusion is possible under Sections 106 and 107 of the Commonwealth Constitution. Under these circumstances any organization which does not recognise fully the position of Tasmania as a self-governing portion of the Empire, appears to Ministers to call for reconsideration on constitutional grounds.

I have, &amp;c.,

J. S. DODDS,

Lieutenant-Governor.

11997

No. 11.

NEW SOUTH WALES.

THE SECRETARY OF STATE to THE GOVERNOR.

(Sent 3.20 p.m., 9 April, 1908.)

TELEGRAM.

Please repeat to the other States my telegram 31 March‡ as to Colonial Office reorganisation.—ELGIN.

\* No. 7.

† Enclosure in No. 7.

‡ No. 8.

16748

No. 12.

NEWFOUNDLAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 11 May, 1908.)

(No. 55.)

My LORD,

Government House, St. John's, 30 April, 1908.

WITH reference to your predecessor's despatch, Miscellaneous, of the 21st September, 1907,\* relating to the reorganization of the Colonial Office, I have now the honour to transmit herewith copy of a letter received from my Prime Minister on the subject.

I have, &amp;c.,

WM. MACGREGOR.

Enclosure in No. 12.

Sir,

Colonial Secretary's Office, 29 April, 1908.

A COMMUNICATION was recently received by the Deputy Colonial Secretary from your clerk, Mr. Cake, intimating that a reply was desired to the despatch "Miscellaneous," of date 21st September, 1907, relating to the reorganization of the Colonial Office, the formation of a "Dominions Department," and an Imperial Secretariat. The said despatch did not appear to call for a reply, and I simply noted its contents, and the desire expressed by the Right Honourable the Secretary of State for the Colonies "to refrain from giving publicity to the despatch for about three weeks after its receipt."

I might say that publicity has not been given to the despatch to this date, as it did not appear to be requisite to do so.

The reorganization of the Colonial Office is entirely a matter relating to the internal economy of that Office, and beyond providing more expeditious and systematic procedure for keeping the Colonies under Responsible Government informed on matters of Imperial interest which are likely to form the subject of discussion at future Colonial Conferences, it does not affect the relations between the Colonies and the Colonial Office in any material sense. The previous status of the Conference remains unchanged; it continues merely as a Conference having powers of discussion and consultation, the individual members being responsible to their respective Governments and Legislatures for their personal part therein.

It seems to be the intention that in future the term "Colony" will be confined to Crown Colonies, and the self-governing Colonies will hereafter be known as "Dominions."

In connection with the Imperial Secretariat, it has occurred to your Ministers that it would serve a useful purpose, and tend to the unification of the laws throughout the Empire, so far as compatible with the different conditions prevalent in each Dominion, if the new Secretariat were made the means of keeping each Dominion informed of the laws from time to time enacted in every other Dominion as well as in the United Kingdom. This might be done by distributing amongst the various Dominions copies of such laws as are from time to time enacted in the others. I am not aware as to whether the new Secretariat has entered upon its duties to date. In a letter received from one of the Prime Ministers who attended the recent Conference, having reference to the Newfoundland Fisheries question, and its discussion by the said Conference, he observes as follows:—

"I am really in almost entire ignorance of everything that has passed on the subject since the Conference closed in May. The first thought that suggests itself is that here was an admirable opportunity for the new Secretariat to distinguish itself, or at the very least to remind us of its existence. The Newfoundland Fisheries question was very carefully considered by the Conference last May, and will probably be discussed again. It therefore falls within the terms of the resolution adopted, yet up to the present no

\* [Cd. 3795].



attempt appears to have been made even to inform us of the important developments that have taken place, much less to invite any expression of our opinion, or qualify us to form one."

The letter from which I quote is dated 26th of November last. It is, therefore, possible that the new Department may not have been in full working order at that time.

I have, &c.,  
R. BOND,  
Colonial Secretary.

His Excellency  
Sir William MacGregor, G.C.M.G., C.B., &c., &c.,  
Governor.

15061

No. 13.

CANADA. NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL AND  
GOVERNOR.

(1. Canada. No. 262.)

(2. New Zealand. No. 73.)

MY LORD,

Downing Street, 15 May, 1908.

I SHALL be glad to learn whether Your Excellency's Ministers wish to offer any observations on my predecessor's despatch, Miscellaneous, of the 21st of September last,\* on the subject of the reorganisation of the Colonial Office.

Replies have now come from all the self-governing dominions except Canada and New Zealand, and if your Ministers have any comments to make on the despatch I shall be glad to receive them.

I have, &c.,  
CREWE.

19668

No. 14.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 30 May, 1908.)

[Answered by No. 15.]

(No. 114.)

MY LORD,

Governor-General's Office, Sydney, 24 April, 1908.

REFERRING to your Lordship's predecessor's cablegram, dated the 31st ultimo,† on the subject of the establishment of the Dominions Department of the Colonial Office, I have the honour to inform your Lordship that I forwarded a copy of the cablegram in question to my Prime Minister for perusal, who, in returning the same, has furnished me with a memorandum upon the subject, a copy of which I enclose, herewith, for your Lordship's information.

May I specially invite your Lordship's attention to the latter part of paragraph 6 of Mr. Deakin's memorandum?

I have, &c.,  
NORTHCOTE,  
Governor-General.

\* [Cd. 3795.]

† No. 9.

Enclosure in No. 14.

COMMONWEALTH OF AUSTRALIA.

(P.M. 08/1335.)

MY LORD,

Prime Minister, Melbourne, 16 April, 1908.

I HAVE the honour to acknowledge the receipt from Your Excellency of copy of a telegram sent by the Secretary of State for the Colonies to the Governor of New South Wales, explaining the misapprehension of the Government of that State of the effect of the despatch of 21st September, relating to the establishment of the Dominions Department of the Colonial Office.

2. The minute of the Premier of New South Wales, copy of which Your Excellency was so good as to forward, has been considered by Ministers, who are unable to perceive any ground for the assumption that the establishment of the Dominions Department will deprive the States of their existing right of direct communication through their respective Governors with the Secretary of State.

3. The objects of the despatch were, it appeared to Ministers, stated with sufficient clearness to preclude the possibility of any such construction being placed upon them as has been done by Mr. Wade, but Ministers do not desire to comment further on this portion of the despatch as the Secretary of State has by his recent telegram specifically intimated that the changes made do not involve any alteration of the present methods of conducting correspondence with the Colonial Office.

4. The views expressed by Mr. Wade as to the respective constitutions of Canada and Australia, and as to the powers of the Federal Government with respect to immigration are noted. The Attorney-General, to whom the despatch was referred for advice, says with regard to them:—

"I do not desire to be understood as assenting to Mr. Wade's definition of the scope of the legislative power of the Commonwealth with regard to immigration; nor as admitting the accuracy of the comparison he draws between the Constitution of the Commonwealth and that of the Dominion of Canada."

5. Ministers do not propose to argue these questions, but desire the Secretary of State to be made aware that as regards immigration at any rate, the State Governments do not hold unanimous opinions, for in a recent letter to this Government the Premier of Victoria says:—

"I fail to see why the Federal authorities now hesitate to take necessary action in the matter of immigration—a matter explicitly entrusted to them by the Constitution."

6. So far as concerns the claims of the States to be represented at the Imperial Conference, Ministers assume that the matter may be regarded as having been settled by the Conference of last year, which though having had the whole correspondence laid before it declined to alter the Constitution of the Imperial Conference so as to permit the separate representation of the States. Ministers will be pleased to have the assurance of the Secretary of State that His Majesty's Government have decided to act on this assumption.

I have, &c.,  
ALFRED DEAKIN.

Governor-General

His Excellency the Right Honourable  
Lord Northcote, G.C.M.G., G.C.I.E.,  
&c., &c., &c.

19668

No. 15.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(No. 190.)

MY LORD,

Downing Street, 12 June, 1908.

I HAVE the honour to acknowledge the receipt of Your Excellency's despatch,



No. 114, of 24th April last,\* forwarding copy of a letter from your Prime Minister, on the subject of my predecessor's telegram of 31st March last,† relative to the organisation of the Colonial Office.

I shall be glad if you will inform Mr. Deakin, with reference to the last paragraph of his letter, that I see no reason for differing from the views expressed in my predecessor's despatch of 16th February, 1907,‡ to the Governor of South Australia on the question of the representation of the Australian States at the Imperial Conference; and that although the State Governments will not be separately and directly represented at meetings of the Conference, I shall, of course, continue to consult them on all matters which directly concern the States.

I have, &c.,  
CREWE.

23327

No. 16.

QUEENSLAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 29 June, 1908.)

(No. 28.)

MY LORD, Government House, Brisbane, Queensland, 20 May, 1908.  
I HAVE the honour to forward a copy of a minute from my Acting Premier. In view of the cable§ received from your Lordship's predecessor addressed to the Governor of New South Wales this minute is somewhat belated, but my Acting Premier wishes your Lordship to be informed that the Queensland Government "see eye to eye" with the New South Wales Government in this matter. I have sent a copy of this despatch to the Governor-General.

I have, &c.,  
CHELMSFORD,  
Governor.

Enclosure in No. 16.

MY LORD, Chief Secretary's Office, Brisbane, 15 May, 1908.  
WITH reference to the interview to which Your Excellency did me the honour to summon me this morning, I have carefully read the minute of the Premier of New South Wales addressed to His Excellency the Governor of that State, dated 30th January, 1908, and I am satisfied that this minute is in conformity with the opinion of the Premier of this State—the Honourable William Kidston—and in which opinion I fully concur, namely, that in all matters not being of purely "Imperial" concern, the several States of the Commonwealth should continue to enjoy the same unrestricted access to the Right Honourable His Majesty's Principal Secretary of State for the Colonies as they enjoyed prior to the inauguration of the Federation of the Commonwealth of Australia.

I have, &c.,  
A. H. BARLOW,  
Acting Chief Secretary.

His Excellency  
The Governor of Queensland,  
Brisbane.

\* No. 14. † No. 9. ‡ No. 32 in [Cd. 3340], March, 1907. § See No. 11.

## II.

## (Resolution III.)

## Imperial General Staff and the sending of Colonial Officers to Staff College.

524

No. 17.

CANADA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 6 January, 1908.)

[Answered 17 February, 1908; 5394: not printed.]

(No. 523.)

MY LORD, Government House, Ottawa, 24 December, 1907.  
WITH reference to Mr. Lyttelton's despatch, No. 309, of the 26th August, 1905,\* and previous correspondence on the subject of the proposed interchange of Imperial Staff Officers and Canadian Officers who have passed the Staff College, I have the honour to forward, for transmission to the War Office, copy of an approved minute of the Privy Council, suggesting that steps should be taken to carry this proposal into effect.

I have, &c.,  
GREY.

Enclosure in No. 17.

EXTRACT from a Report of the Committee of the Privy Council, approved by the Governor-General on the 20th December, 1907.

(P.C. 2735.)

The Minister of Militia and Defence submits, under date the 5th December, 1907, that the time has arrived when opportunities for the employment of selected officers of the Canadian forces with His Majesty's regular troops might be extended, with advantage to both Canada and the Empire.

The Minister observes that in the despatch from the Secretary of State for the Colonies, dated 17th April, 1905, Mr. Lyttelton made reference to the employment of selected Canadian Officers upon the staff of the army in England or India, and a reply was sent to the despatch in question to the effect that it would be of great benefit to the Canadian Militia if Canadian Officers who had graduated at the Staff College were given appointments either in England or India, provided Imperial Staff Officers were sent to Canada to take their places;

That in a subsequent despatch, No. 309, dated August 26th, 1905, Mr. Lyttelton enclosed a letter, dated War Office, August 23rd, in which the Army Council agreed to the interchange of Canadian and Imperial Staff Officers, adding an expression of opinion, with which Mr. Lyttelton heartily associated himself, that such an interchange would not fail to be beneficial to the military forces of the Empire as a whole;

That at the recent Imperial Conference this question of the interchange of officers received particular attention, but more especially in regard to the interchange of officers of the General Staff.

The Minister states that he took advantage of the opportunity afforded by his presence in London to discuss with the Army Council the question considered in this minute, and suggested, for consideration, the further possibility of executive commands as well as staff appointments in the British Army being offered by the Army Council to Canadian officers who had acquitted themselves well on active service in the field, and whom that Council might select as suitable for such employment. This suggestion was well received by the War Office authorities, who agreed that there were officers on the Canadian permanent staff well fitted for such employment (Brigadier-General W. D. Otter, C.B., Brigadier-General C. W. Drury, C.B.,

\* 30358: not printed.



Colonel F. L. Lessard, C.B., for example), and added that were appointments of this nature to be made, no doubt the principle of reciprocity, already recognised, would be mutually observed, and officers on the British establishment would be regarded as eligible for the appointments vacated by Canadian officers so selected.

Although the general principle of exchange has thus been accepted on both sides, no steps have yet been taken towards giving it effect. In the opinion of the Minister the time has come when the Army Council might properly be approached and asked to consider the names of Canadian officers for suitable employment of the nature indicated in the United Kingdom or India.

The Minister further observes that it is, perhaps, desirable to add that the principle of reciprocity is fully accepted by Your Excellency's Government. Indeed, the Canadian Government may be said to have already done more than its share in this respect, in that the appointments of Chief of the General Staff, Director of Operations and Staff Duties, Commandant of the Royal Military College, and Chief Staff Officer, Maritime Provinces Command, are already held by officers of the British Regular Army, in addition to the many regimental officers temporarily attached to units of the permanent force;

That the tenure by the British officers of the appointments named above might well be held to be ample fulfilment of the pledge of reciprocity on the part of the Canadian Forces;

The Committee concurring in the foregoing, recommend that Your Excellency may be pleased to cause a communication embodying the sense of this minute to be sent to the Right Honourable His Majesty's Principal Secretary of State for the Colonies, to be submitted to the Army Council through the proper channel.

RODOLPHE BOUDREAU,  
Clerk of the Privy Council.

524

No. 18.

CANADA.

COLONIAL OFFICE to WAR OFFICE.

[Answered by No. 20.]

SIR,

Downing Street, 14th January, 1908.

WITH reference to the letter from the War Department of the 23rd August, 1905,\* I am directed by the Earl of Elgin to transmit to you for the early consideration of the Army Council, the enclosed copy of a despatch† which has been received from the Governor-General of Canada on the subject of the proposed interchange of Imperial staff officers and Canadian officers who have passed the Staff College.

I am to request that you will draw the attention of the Army Council to that part of the minute of the Dominion Privy Council enclosed in Lord Grey's despatch which states that the principle of reciprocity is fully accepted by the Canadian Government, and suggests that, so far as Canada is concerned, the condition of reciprocity is satisfied in advance.

I am, &c.,  
H. W. JUST.

4134

No. 19.

WAR OFFICE to COLONIAL OFFICE.

(Received 5 February, 1908.)

[Answered 5 March, 1908; 7130: not printed.]

SIR,

War Office, London, S.W., 4 February, 1908.

I AM commanded to inform you, for the information of the Secretary of State for the Colonies, that the Army Council notice with regret that no officer of the military forces of Canada, Australia, New Zealand, or South Africa has been sent this year to the Staff College.

\* 30358: not printed.

† No. 17.

Being convinced of the great importance of forming an Imperial General Staff, the Army Council would be glad if steps could be taken to urge on the Governments concerned the great desirability of sending qualified officers to the Staff College each year from His Majesty's oversea dominions.

I am, &c.,  
E. W. D. WARD.

5394

No. 20.

CANADA.

WAR OFFICE to COLONIAL OFFICE.

(Received 15th February, 1908.)

[Answered by L.F. transmitting copy of No. 21.]

SIR,

War Office, London, S.W., 14th February, 1908.

I AM commanded by the Army Council to acknowledge the receipt of your letter of the 14th ultimo, No. 5241, 1907-8,\* enclosing copy of a despatch from the Governor-General of Canada on the subject of the interchange of British and Canadian officers, and to inform you, in reply, that the Council entirely approve of the proposals contained in this despatch.

An opportunity has occurred of giving effect to the principle of reciprocity, Colonel W. D. Otter, C.B., A.D.C., having been selected for the command of the 5th Infantry Brigade at Aldershot which will be vacant on the 1st of May next, and I am directed to request that enquiries may be made as to whether this command will be agreeable to him.

I am, &c.,  
E. W. D. WARD.

5394

No. 21.

CANADA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Copy to War Office, 28th February, 1908. L.F.]

(No. 87.)

MY LORD,

Downing Street, 20th February, 1908.

WITH reference to my telegram of the 17th instant,† I have the honour to transmit to you, to be laid before your Ministers, a copy of a letter‡ from the War Office stating that the Army Council concur in the proposals of the Dominion Government with regard to the interchange of Canadian and British officers, and enquiring whether it would be agreeable to Colonel W. D. Otter, C.B., A.D.C., to accept the command of the 5th Infantry Brigade at Aldershot, which will be vacant on the 1st of May next.

I have, &c.,  
ELGIN.

4134

No. 22.

AUSTRALIA: CANADA.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL.

(Australia. No. 61.)

(Canada. No. 94.)

MY LORD,

Downing Street, 21 February, 1908.

I HAVE the honour to transmit to Your Excellency, to be laid before your

\* No. 18.

† 5394: not printed.

‡ No. 20.



Ministers, the accompanying copy of a letter\* from the War Office calling attention to the importance, with a view to the formation of an Imperial General Staff, of the sending of qualified officers each year to the Staff College in England.

I have, &c.,  
ELGIN.

7291

No. 23.

WAR OFFICE to COLONIAL OFFICE.

(Received 29 February, 1908.)

[Answered by No. 25.]

SIR,

War Office, London, S.W., 28 February, 1908.

WITH reference to the proceedings of the Colonial Conference at their meeting in April, 1907, I am commanded by the Army Council to inform you that the Chief of the General Staff has had under consideration a scheme for giving effect to the proposals which were outlined by the Secretary of State for War, and agreed to generally at the Conference, in connexion with the formation of an Imperial General Staff.

I am to say that it would be premature to address the Colonial Governments at the present stage; but that a memorandum on the subject will be forwarded to you in due course.

I am, &c.,  
E. W. D. WARD.

12430

No. 24.

THE SECRETARY OF STATE to THE GOVERNORS.

[Copy to War Office, 13 April, 1908. L.F.]

(New Zealand. No. 60.)

(Orange River Colony. No. 43.)

(Cape of Good Hope. No. 64.)

(Transvaal. No. 94.)

(Natal. No. 58.)

MY LORD,

SIR,

Downing Street, 11 April, 1908.

I HAVE the honour to transmit to you, to be laid before your Ministers, with reference to the 3rd Resolution of the Colonial Conference, copy of a Memorandum† drawn up by the War Office, stating the conditions of entry to, and the nature of, the course of study at the Staff College at Camberley.

2. Being convinced of the great importance of forming an Imperial General Staff, the Army Council trust that your Ministers will, as far as possible, arrange for sending each year one or more duly qualified officers for training at the College.

I have, &c.,  
ELGIN.

7291

No. 25.

COLONIAL OFFICE to WAR OFFICE.

SIR,

Downing Street, 30 June, 1908.

I AM directed by the Earl of Crewe to refer to your letter of the 28th February last,‡ and to enquire whether the Army Council are yet in a position to make any statement with regard to the scheme to give effect to the Third Resolution of the Colonial Conference, 1907, as to the desirability of the formation of an Imperial General Staff.

I am, &c.,  
C. P. LUCAS.

\* No. 19.

† Not reprinted here.

‡ No. 23.

## III.

(Resolution V.)

Judicial Appeals.

29866

No. 26.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 20 August, 1907.)

(Confidential.)

MY LORD,

Governor-General's Office, Sydney, 16 July, 1907.

REFERRING to your Lordship's predecessor's despatch "General, Confidential," dated 10th December, 1903,\* and subsequent correspondence, on the subject of Appeals to the Privy Council from the Colonies, I have the honour to inform your Lordship that the views of the State Governments upon this matter were invited on 9th March, 1904, in a letter of which a copy is appended hereto. Copies of the replies to that communication are now forwarded, herewith, together with copies of memoranda on the subject by the Honourable I. A. Isaacs, then Attorney-General to this Government, the Honourable L. E. Groom, the present Attorney-General, and also by the Commonwealth Crown Solicitor.

I have, &c.,  
NORTHCOTE,  
Governor-General.

Enclosure 1 in No. 26.

COMMONWEALTH OF AUSTRALIA.

(No. 128/04.)

SIR,

Crown Solicitor's Office, Melbourne, 3 February, 1904.

I HAVE the honour to enclose herewith, as directed, observations on the suggestions and observations issued by the Lord Chancellor and other Lords of the Judicial Committee of His Majesty's Privy Council on the subjects of appeals from Colonies to the Privy Council.

It is difficult to approach the subject in the way it would be approached if the High Court of Australia had not been established as an Australian Court of Final Appeal, except by consent; for it will, I presume, be the desire of the Federal Executive and Parliament to encourage appeals to that Court, instead of to the Privy Council; but as the States have in some cases, if not in all, different Orders in Council, and as the right of appeal to the Privy Council on all but Federal matters is continued, I think the Legal Advisers to the different States would be pleased to have the opportunity to draw attention to the amendments required in their Orders in Council to carry out the wishes of the Natal Judges so far as they are approved of by the Judicial Committee and to support the Natal Memorandum in some matters not approved of by the Judicial Committee.

The full Court in the State of Queensland lately held that the Order in Council as to appeals from State Court judgments was not affected by the Constitution Act or by Federal legislation establishing a High Court.

The Secretary,  
Attorney-General's Department,  
Melbourne.

I have, &c.,  
CHAS. POWERS,  
Crown Solicitor.

\* 43644: not printed.



## MINUTE PAPER.

(Subject: External Affairs, 04/105.)

## PRIVY COUNCIL APPEALS.

MEMORANDA marked "A" and "B" issued by the Lord Chancellor and other Lords of the Judicial Committee of His Majesty's Privy Council on the subject of Appeals from Colonies transmitted for observations.

The SECRETARY,  
Attorney-General's Department,  
Melbourne,

MEMORANDUM "A" deals with the memorandum by the Chief Justice of Natal and Mr. Justice Mason, and makes suggestions and observations thereon.

So far as the matters referred to affect the Commonwealth, and are not specially applicable to Natal or South Africa, the observations and suggestions in memorandum "A" on the statements contained in the Natal Memorandum (copy enclosed) appear to me to satisfactorily deal with the difficulties mentioned so far as they can be overcome, and suggest a way of avoiding delay, and of enabling the cases to be drawn and printed in the Colonies as they are in appeals from Canada.

Memorandum "B" mentions that when other suggested provisions are made it is proposed to discontinue the procedure in appeals hereafter set forth, viz.:—

"Where a respondent to an appeal has failed to appear, the appellant, before he can get his appeal set down, has to take out an order requiring the party in default to appear, which order is posted at the Royal Exchange and also in Lloyds Coffee House, and remains so posted for two months. If the party at the end of that time has still failed to appear, a further (peremptory) order is taken out, and posted as above for six weeks. If that further period expires without an appearance being entered by any party in default, the appeal is treated as being set down for hearing so soon as the appellant and any respondent who has appeared have lodged their 'cases'."

The proposal to discontinue the procedure can, I think, be readily assented to for the reasons given, and the suggested provisions in place thereof will, in my opinion, be satisfactory to appellants and respondents.

The Commonwealth Parliament having made provision for a Court of Appeal in the Commonwealth by establishing the High Court of Australia, appeals to the Privy Council it is hoped will be gradually discontinued.

Appellants in the different States, when appealing to the Privy Council, still act on the Orders in Council issued to the States; and, I think, the State Governments would possibly be in a better position to make observations on the difficulties found under their separate Orders in Council authorising appeals.

3 February, 1904.

CHAS. POWERS,  
Crown Solicitor.

(67/04.)

## MINUTE PAPER.

(Subject: Privy Council Appeals.)

The ATTORNEY-GENERAL,

THE observations of the Crown Solicitor, with which I concur, are submitted.

R. R. GARRAN, Secretary,  
Attorney-General's Department.

Approved:

JAMES G. DRAKE.

4 February, 1904.

(Confidential.)

(No. 04/1347. Circular.)

SIR,

Melbourne, 9 March, 1904.

I HAVE the honour to transmit herewith copy of a confidential despatch, dated 10th December, 1903, from the Secretary of State for the Colonies to the Governor-General, relating to appeals from the Colonies to the Privy Council, with its enclosures. From these you will see that various measures have been proposed by the Judges of Natal in order to obviate the great delay and expense which are

attendant upon the present system of appeals; and, further, that it has been suggested that a general Order in Council might be drafted for the purpose of consolidating and amending the existing general orders relating to appeals.

2. As the High Court of Australia has now been established as a Court of Appeal final, except by consent, it is anticipated that appeals from Australia to the Privy Council will gradually diminish in number, but as the right of appeal on all but Federal matters remains, it is thought that the legal advisers of your Government may desire to consider the desirableness of proposing amendments in the Orders in Council which are in force in your State in order to enable the local courts to expedite proceedings so far as lies within their authority, as well as to shorten and cheapen proceedings before the Judicial Committee in England.

3. It will be observed that some of the Natal proposals have met with the approval of the Privy Council. These it may be thought wise to adopt and it may also be considered desirable to support, by the endorsement of the opinion of your law advisers, some of the Natal suggestions which the Lords in Council did not see their way to adopt.

4. I shall be pleased to receive a communication from you on this subject, which, with those I hope to receive from the other States, will be put before the Secretary of State at an early date.

I have, &c.,  
ALFRED DEAKIN.

The Premiers of all the States (6).

## GOVERNMENT OF VICTORIA.

(No. 1661. Confidential.)

SIR,

Premier's Office, Melbourne, 20 May, 1904.

IN continuation of my letter of the 18th March last, No. 873, in reply to that of your predecessor (under date, 9th idem), respecting the question of appeals from the Colonies to the Privy Council, I have now the honour to state that my colleague, the Honourable the Attorney-General, to whom the matter was referred, is desirous of obtaining the opinions of the Judges, the Law Institute, and the Committee of Council on the subject, before coming to a decision himself; but, as Mr. Deakin's communication was marked "Confidential," I shall be glad to know whether you have any objection to Mr. Davies submitting the papers to the legal profession for the purpose mentioned.

I have, &c.,  
THO. BENT,  
Premier.

The Honourable the  
Prime Minister of the Commonwealth,  
Melbourne.

(Confidential. No. 04/4629.)

SIR,

Melbourne, 23 May, 1904.

IN acknowledging the receipt of your letter of the 20th instant, No. 1661, respecting the question of appeals from the Colonies to the Privy Council, I have the honour to inform you that there is no objection on the part of this Government to the papers being submitted by your Attorney-General to your State Judges, Law Institute, and Committee of Council, on the understanding that the matter is not made public.

I have, &c.,  
J. C. WATSON.

The Honourable the  
Premier of Victoria,  
Melbourne.

## NEW SOUTH WALES.

(5806. Confidential.)

SIR,

Premier's Office, Sydney, 27 June, 1904.

REFERRING to your letter of 26th ultimo, No. 04/4629, and to your predecessor's letter of 9th March last, No. 04/1347, I have the honour to transmit you a



copy of a memorandum by the Chief Justice of this State respecting Privy Council appeals.

The Honourable  
The Prime Minister of the  
Commonwealth of Australia,  
Melbourne.

I have, &c.,  
JOHN PERRY,  
For Premier.

Chief Justice's Chambers,  
Supreme Court, Sydney.

MEMORANDUM AS TO PRIVY COUNCIL APPEALS.

I have to apologise for the delay in writing on this matter, but I have been so pressed with business that I have not previously had time for the consideration it requires.

In the first place I agree with the Registrar of the Privy Council that much delay in bringing on appeals for hearing is due to the parties. I am aware that delay has been caused on this side by the want of promptitude on the part of parties in attending to get the transcript ready for transmission to England.

There need be no delay in this State in obtaining leave to appeal inasmuch as it has been held, so far back as 1861, that a single Judge in Vacation may grant leave to appeal to the Privy Council and Vacation is understood to mean any time when the Supreme Court is not sitting in Banco. Such order must be confirmed upon the first day of the ensuing term, but may be acted upon at once.

The only alteration I can suggest is in the 5th clause of the Order in Council of the 13th November, 1850. By that clause three months is allowed to the appellant from the date of the petition for leave to appeal to enter into security for the prosecution of the appeal. I think in these days of easy communication three months is too long and might well be reduced to two months at the utmost.

An objection has been taken by the Natal Judges as to the possible loss of interest to a successful plaintiff should the defendant appeal. Such an objection does not hold good in this State inasmuch as under the Act No. 5 (1900) a plaintiff is entitled to interest upon the amount of his verdict or judgment at the rate of 4 per cent. per annum—this except that the amount of statutable interest is now less—has been the law of the State since 1861 see 24 Vic., No. 8.

I was not aware till I read the Minute B of the Registrar of the Privy Council of the course of procedure in England where the respondent to an appeal failed to appear. This certainly seems very onerous, if not oppressive, to the appellant. In these days of rapid communication, some improvement upon a practice which might have been in use in 1846, and previous thereto, but which is now antiquated and out of date, should be devised: as, for instance, an Order of Council might be framed requiring a respondent within a reasonable time after leave to appeal has been granted, to name a solicitor or other person in London to receive notices on his behalf, including the notice that the appeal has been set down to be heard. A notice served at such place should be deemed to be sufficient for all purposes.

It might be provided that if the respondent changed his mind and desired to appear that he should then give the appellant notice of a place in London where notices might be served.

As to printing the record of proceedings or evidence, this is fully provided for by Clause 3 of the Order in Council of the 13th June, 1853, which provides that in all cases in which the parties in appeals shall think fit to have the proceedings printed abroad they shall be at liberty to do so; the order then regulates the course to be adopted should parties to the appeal so elect.

So far as this State is concerned, with the exception of shortening the time within which security must be given, I have no suggestion to offer. My experience is, that the proceedings in appeals to the Privy Council have been invariably satisfactory, that where there has been delay it is the parties who are responsible, and that the costs of appeals are, as a rule, moderate.

FREDK. M. DARLEY,  
Chief Justice.

15 June, 1904.

QUEENSLAND.

(04/4165.)

SIR,

Chief Secretary's Office, Brisbane, 5 July, 1904.

REPLYING to your letter of the 26th May last, with further reference to the despatch from the Colonial Office on the subject of Colonial appeals to the Privy Council, I have the honour to forward herewith a copy of a report on the question with which my colleague the Attorney-General, to whom I referred the matter, has been favoured by the Chief Justice of this State.

I have, &c.,  
ARTHUR MORGAN.

The Honourable  
The Prime Minister of the Commonwealth,  
Melbourne.

SIR,

Judges' Chambers, Brisbane, 30 June, 1904.

I HAVE the honour to acknowledge the receipt, from the Under-Secretary to the Department of Justice, of a confidential circular, dated 9th March, addressed by Mr. Deakin, who was then Prime Minister of the Commonwealth, to the Premier of this State, together with a copy of a despatch, dated 10th December, from the Secretary of State for the Colonies, transmitting certain memoranda marked A and B, issued by the Lord Chancellor and other Lords of the Judicial Committee of His Majesty's Privy Council on the subject of appeals from the Colonies and enclosing a copy of a memorandum by the Chief Justice of Natal and Mr. Justice Mason.

In reply to your request that I shall give you my views on the matter, I think it more convenient to express them in the form of categorical observations upon the various paragraphs of the Natal memorandum, as condensed in Memorandum A above mentioned, and the corresponding suggestions of their Lordships upon them.

Taking them in numerical order, therefore, I have the honour to offer the following remarks and suggestions:—

1. There is no doubt that the expense of appeals to His Majesty in Council is admitted by the members of the legal profession to be heavy and the loss of time before a final decision is given in many cases is found to be very inconvenient and onerous to the parties.

2. In my opinion the suggestion is an excellent one that the General Orders in Council be consolidated and amended so as to have one General Order applicable to appeals from each Dependency, power being given to the Judges of the several Colonies or States to make rules adapting the general provisions of such order to the special circumstances of such State or Colony.

3. The observation that the Judicial Committee have power to award interest up to the date of the decision disposes of the proposal of the Natal memorandum.

4. This proposal is dealt with in a later observation.

5. I cannot quite follow this proposal or the observation made upon it. I have not had access to the Indian Code of Civil Procedure which is mentioned by their Lordships.

The Order in Council applicable to this State, however, is plain. An appeal is given from a judgment of the State Court "in case any such judgment . . . shall be given or pronounced in respect of any sum or matter at issue above the amount or value of £500 . . . or shall involve directly or indirectly any claim . . . to property or any civil right amounting to or of the value of £500." The measure of value for determining a defendant's right of appeal was decided in *Allan v. Pratt*, 13 A. C. 780, to be the amount which the plaintiff has recovered. It is perhaps open to question whether upon the construction of the words above quoted a plaintiff recovering £500 and no more would have the right of appeal. This doubt could be set at rest if a new Order in Council is being drafted.

I think it very undesirable that the appealable amount should be reduced below £500. This is the minimum all over Australia except Tasmania where it is £1,000. The appealable amount in the High Court of Australia is £300 and that was probably determined on the basis of the amount fixed for the Privy Council.

5.—(b) I do not think it desirable to confer on Colonial or State Courts the power to give special leave to appeal to the Privy Council. The rights to appeal to the Privy Council was preserved in Australia only after long discussion in the Federal Parliament, and I am of opinion that appeals to the Privy Council for



judgments of less amount than £500 should be discouraged. Special leave to appeal can always be obtained from the Judicial Committee in a proper case. The High Court of Australia can also grant special leave to appeal in any case no matter what may be the amount involved.

6. I think it a good suggestion that the motion or petition for leave to appeal should be brought before the Colonial and State Court within 21 days. It should be made within 21 days after the judgment is pronounced. The time limit in the Queensland Order in Council and all the other States is 14 days, and the Registrar informs me that he has heard many complaints that this time is too short. The time limit for appeal to our own full Court is 21 days, and it is the same in the High Court. It is apparently suggested that this matter can be dealt with by a rule of the State Court. But Section 20 of the Privy Council Act of 1833 is explicit upon the point. It must be dealt with by an Order in Council.

The latter part of proposal 6 does not affect Queensland, as the practice is settled here. Leave can be given by a single Judge.

7. I think it desirable, even where the parties consent, that the application should be made in open Court. The question as to the amount of security to be given is always keenly contested.

8. No provision is made in the Order in Council for service of notice of the petition or motion on the other side, but it has always been the practice in this State to serve such notice. Provision is made in our own Court for service of notice on all parties directly affected by the appeal and power is given to the Court of Appeal to direct notice to be given to all parties to the cause or to be served upon any person not a party. And the High Court has an exactly similar provision in appeals from the Supreme Courts of the States. I think a provision could usefully be made in the Order in Council for service in similar cases except that the Court appealed from and not the Court of Appeal should have the power to direct other parties to be served with notice. Great delay would be caused if that power were reserved for the Privy Council.

As to the time within which the security must be completed, I think that a fortnight, which is suggested by the Natal Judges, is much too short, and I think that the time, viz., three months, provided by our Order in Council, and in all the States except Western Australia (where it is 28 days) and in the High Court, is too long. The Registrar, who has had considerable experience, thinks that two months is long enough for the appellant to get security, and I agree with him. The practice in the High Court is that unless the security is given within the prescribed time, the appeal shall be deemed to be abandoned, and I think it desirable that a similar provision should be introduced into the Order in Council. A question then arises as to the respondent's costs incurred since judgment by reason of appellant's action in applying for leave. The usual order provides that these costs shall abide the event unless His Majesty otherwise orders and shall be paid by the appellant if the appeal is dismissed for want of prosecution in England.

If our Court has no power to impose a condition, "or if the appeal is abandoned by reason of the security not having been given within the prescribed time," I suggest that this power should be given by a provision in the proposed new Order in Council.

As to the delay.—The chief cause of this is the fact that no limit of time is prescribed in any Act or Order in Council within which the appellant must apply for his final order to prosecute his appeal. He cannot apply until his security is completed, i.e., at present three months after leave granted (I have already suggested two months as the time limit), but he can apply at any time after completion of security. The Registrar tells me that the application is sometimes made six months after this event, and he knows a case in which it was nearly two years. I am of opinion that complaints about delay at all events in this State would cease if a time limit were fixed for the appellant's application for his final order. By Section 20, above quoted, this can be done by an Order in Council. The State Courts have no power to do it. I suggest three months as the limit of time, and if the appellant fails to apply within that time, that his appeal be deemed to be abandoned. During that time the record has to be prepared, and the reasons of the Judges obtained, and I think three months quite long enough for the work.

After the final order has been obtained the appellant must transmit the record within one calendar month, *vide* Section 11 P. C., Act of 1844.

Shortly, therefore, I suggest the following times as appropriate:—21 days to

apply for leave to appeal. (It is now 14 in the Order in Council.) Two months after leave granted for appellant to complete his security. (It is now three months in the Order in Council.) Three months after security completed to prepare record and apply for final order to prosecute appeal. (There is no provision as to this in any Act or Order.) One month after final order to send record to England. (This is provided in Section 11 of the Act of 1844.) The "cases" are never drawn in this State, and the Registrar tells me that he has never heard of one being sent out here for comment.

9. Our order giving leave to appeal, as already mentioned, always now contains a provision that the costs at this end of the preparation of transcript record, &c., shall abide the event unless His Majesty otherwise orders, and shall be paid by the appellant in case the appeal shall be dismissed for want of prosecution. The costs of the suit in the State are provided for in the Order in Council which empowers the State Courts to direct that the judgments appealed from be carried into effect or be stayed pending appeal. If carried into effect security must be given to the satisfaction of the local Court for the due performance of the order of the Privy Council.

10. This is provided for by the Order in Council as above stated.

11. This is provided for by the Order in Council as above stated. As to "Cases" I have already dealt with it.

12. This refers to matters dealt with in England, and unless asked by the Judicial Committee to make suggestions I should hesitate to do so.

13. As to unnecessary matter being included in the record, the Registrars ought to be capable of deciding that, but in cases where the Registrars do not care to take the responsibility, I think the suggestion of the Lords of the Judicial Committee as set out in their remarks in every way meets the requirements of the case. I am of opinion that the Court of Appeal and not the State Court should decide whether the document objected to should be included in the record or not.

14. I am informed that pica type is scarce in the States and printers in consequence charge very heavily for locking up this type for the length of time required for the preparation of the transcript record. If the transcript is prepared in the State only 50 copies are printed here and no further charge for printing or copying the record is allowed in England. Whereas, if a written transcript is sent, the appellant has to pay for printing 100 copies in England, *vide* Order in Council of 13th June, 1853. This seems very anomalous and, I think, ought to be amended. I cannot see any necessity for providing each party with 30 copies.

15. I have already dealt with the matter of special leave to appeal.

16. Special provision is made for revivor of a suit on the death of an appellant in the practice before the Privy Council. On petition to the Court below a supplemental record is sent to England giving the name of the proper representative of the deceased appellant. I cannot suggest any way in which this practice could be amended.

As to the practice now in vogue mentioned in Memorandum B where a respondent to an appeal has failed to appear, I agree with their Lordship's comment that it should be discontinued, and I offer the following suggestion which, I think, may meet all requirements.

When the transcript record is posted by the State Registrar to the Privy Council Office, a registered letter should be sent to the respondent and his solicitor, respectively, giving them notice of the fact and date of such posting of the record. A similar notice should be posted up in the registry on a board provided for that purpose and an affidavit of such posting and sticking up should be forwarded within a week to the Registrar of the Privy Council.

The Privy Council might accept the affidavit as evidence of notice that the appeal had been sent to England and, if the respondent does not within, say, three months after the receipt of the record at the Privy Council Office, enter an appearance, he should be treated as being in default without any order or other proceeding.

I hope that these observations may contribute towards a solution of the difficulties which are inseparable from such a wide subject as appeals to His Majesty in Council from Courts so remote from London and so diverse in practice as are those of the numerous dependencies of the Empire.

I return the enclosures in your letter, and

The Honourable  
The Attorney-General.

I have, &c.,  
POPE A. COOPER,  
Chief Justice.



## WESTERN AUSTRALIA.

SIR,

Premier's Office, Perth, 6 December, 1904.

I HAVE the honour to acknowledge the receipt of your letters of the 2nd November, *et ante*, respecting appeals from the States to the Privy Council.

I now beg to enclose, for your information, a report upon the subject prepared by the Acting Attorney-General and the Assistant Crown Solicitor.

I have, &c.,  
H. DAGLISH.

The Right Honourable  
The Prime Minister,  
Commonwealth of Australia,  
Melbourne.

## HONOURABLE THE PREMIER,

1. We agree that reforms in the practice and procedure relating to appeals from this State to His Majesty in Council are required in order:—

- (a) to secure as far as possible that the appeals shall be disposed of within a reasonable time after the date of the decision appealed from, and,
- (b) to minimise the expense attendant on such appeals.

2. The necessity for such reforms might fairly be described as urgent, were it not for the fact that the establishing of the High Court of Australia with its large appellate jurisdiction will in all probability render appeals to the Privy Council extremely few in number for the future.

3. As matters have stood in the past the experience of most practitioners in this State, or at any rate in the metropolitan city in the State, embraces instances where litigants, although advised that they have good grounds for appeal, have put up with what they considered to be injustice rather than encounter the great expense and annoyance of the long delays incident to appeals to the Privy Council.

4. We agree that the first and obvious step to take in the matter is the promulgation of a new and consolidating Order in Council, revoking the existing orders, and exhaustively dealing with the practice in appeals to the Judicial Committee of the Privy Council.

5. Such Order in Council should lay down the practice for all the States within the Commonwealth of Australia, which, for practical purposes, through existing postal and telegraphic facilities, may be considered as virtually equidistant from Downing Street. It is a question for others to decide whether or not appeals from India and Colonies other than the States of this Commonwealth could conveniently be dealt with in the same order as that for the Australian States.

6. The Order in Council might lay down the practice in a series of rules after the manner of the orders and rules regulating the procedure of the Supreme Court of Judicature and High Court of Justice in England.

7. It is beyond possibility at present to suggest what the contents of the rules should be. The object of saving delay and expense should be steadily kept in view.

8. The following elementary suggestions are respectfully submitted as to what the rules should provide for, namely:—

- (a) Notice of appeal to the Privy Council to be given within a reasonable time after the decision appealed from (six months suggested) or the right of appeal to lapse, such reasonable time to be long enough to enable the advice of English counsel as to the propriety of appealing to be taken.
- (b) The rules should fix the appealable amount, and deal with the cases in which special leave to appeal is necessary.
- (c) The rules should delegate the powers of the Judicial Committee in regard to matters of practice and the making of practice rules to the State Supreme Court as far as possible to save trouble and expense.
- (d) The rules should enable the appeal to be dismissed for want of prosecution if the appellant is guilty of unreasonable delay at any stage of the proceedings, or at any stage neglects or delays to do anything necessary to be done before the appeal can be heard.

(e) The rules should, as far as possible, enable parties to prepare their cases and have the printing and binding of the appeal books done in the State.

(f) If a new Order in Council is promulgated, it will no doubt abolish the archaic methods of citing respondents who have not appeared, and in other respects modernize and simplify the procedure.

9. We do not see that any useful purpose would be served by attempting to deal with the matter in minute detail at the present juncture, but when the Order in Council has been drafted we should be happy to peruse the draft and consider how far its provisions are suitable to the requirements of this State.

W. F. SAYER,  
Acting Attorney-General and Crown Solicitor.  
A. E. BARKER,  
Assistant Crown Solicitor.

Perth, Western Australia,  
28 November, 1904.

## TASMANIA.

References to certain paragraphs of the "Analysis  
of the Natal Memorandum."

Remarks thereon.

## 2. Consolidation of Orders in Council

2. Suggestion (b) of the Lords of the Judicial Committee would admirably meet the case of Tasmania.

4. Colonial Courts should have more power in respect of proceedings preliminary to the admission of appeals to His Majesty in Council.

4. It appears desirable that the Tasmanian Charter of Justice (4th March 1st Wm. IV.) should be amended and give power to the Judges of the Supreme Court of Tasmania to frame rules for more effectually carrying the order into effect in relation to appeals to the Privy Council. It is suggested that if so amended it is desirable that the appealable amount be reduced to £500. There appears to be no reason why the appealable amount in the case of Tasmania should continue to be £1,000, whilst in nearly all the other States the appealable amount is £500 or under, *vide* Tabulated List, page 146, Manual *re* Privy Council Appeals by Thomas Preston (1900).

5a and b, also 6 and 7 ...

5a and b, also 6 and 7. I advise that these proposals of Natal Memorandum be endorsed as to Tasmania.

8a and b ...

8a and b. The same advice applies, substituting one month for a fortnight in the case of 8b.

8c and 8d ...

8c and 8d. I do not advise the adoption of these proposals for Tasmania.

10 and 11 ...

10 and 11. I advise that these proposals of Natal Memorandum be endorsed as to Tasmania.

12, 13, 14 ...

12, 13, 14. These proposals have been dealt with by the Lords of the Judicial Committee.

15 and 16 ...

15 and 16. I advise that these proposals in Natal Memorandum be endorsed as to Tasmania.

SIR,

Attorney-General's Office, Hobart, 6 December, 1904.

I HAVE the honour, as the legal adviser of your Government, to inform you that in response to communications upon the subject addressed by the Honourable



the Prime Minister of the Commonwealth of Australia to the Honourable the Premier of Tasmania, and transmitted to me for opinion, I have considered the desirableness of proposing amendments in the Order in Council in force for this State, in order to enable the local Courts to expedite proceedings so far as lies within their authority, relative to appeals to the Privy Council, as well as to shorten and cheapen proceedings before the Judicial Committee in England. I am of opinion that your Government may, with advantage to the State of Tasmania, support and endorse almost all the proposals in the Natal Memorandum of 15th February, 1902, subject of course to the suggestions and observations made by the Lords of the Judicial Committee in August, 1903. In the attached memorandum I have dealt with the paragraphs of the said Natal Memorandum which call for remark.

In conclusion I would like to remark that the proposition of the Lords of the Judicial Committee to abolish what is styled in Prestons' Manual, page 54, a "quaint old custom," that is the custom of affixing a copy of summons (calling upon respondents to appear to appeal) at the Royal Exchange and Lloyd's Coffee House, will relieve the parties to an appeal of considerable expense and prevent a great waste of time, and it is needless to say that your Government should welcome the simpler procedure proposed to be substituted.

I have, &c.,  
G. CROSBY GILMORE,  
Attorney-General.

The Honourable  
The Premier,  
Hobart.

#### VICTORIA.

(Confidential.)

SIR, Premier's Office, Melbourne, 15 February, 1905.  
ADVERTING to previous confidential correspondence on the question of appeals from the Colonies to the Privy Council, I have now the honour to forward herewith, for the information of the Right Honourable the Secretary of State for the Colonies, the accompanying copy of reports on the subject which I have received, as the result of my enquiries, from their Honours the Chief Justice, Mr. Justice a'Beckett, and Mr. Justice Hood, the Sub-Committee appointed by the Committee of Counsel of Victoria, and the Council of the Law Institute of Victoria.

I have, &c.,  
J. MURRAY,  
For the Premier.

The Honourable  
The Prime Minister of the Commonwealth,  
Melbourne.

SIR, Supreme Court, Judges' Chambers, Melbourne, 1 February, 1905.  
I HAVE now the honour to return you the file of papers constituting the correspondence 04/5493, concerning which you recently wrote to me. The views of Mr. Justice a'Beckett, Mr. Justice Hood, and myself are expressed therein. Mr. Justice Hodges does not desire to say anything on the matter, and Mr. Justice Holroyd has been, and still is, so much occupied by a very heavy case that it has been, so far, impossible to obtain his perusal of the file, and I fear that to await his being at liberty to deal with it would be to involve long delay.

I have, &c.,  
JOHN MADDEN,  
Chief Justice.

The Honourable  
The Attorney-General.

Judges' Chambers, Melbourne, 13 December, 1904.

The Judges of the Supreme Court are not, as I think, in a position to suggest or approve of changes in the practice after leave to appeal has been given. The matter is then out of their hands. With respect to alterations in the law regulating leave to appeal, I agree with Judge Hood that the present long-established practice works satisfactorily in Victoria, and that no change would be desirable unless it had some manifest advantage to recommend it.

I think, however, that it would be desirable to give the general power to grant special leave where some important point is involved as suggested by No. 14, page 3, of paper 6730.\* This could be given without altering the practice as to mode of obtaining leave.

THOS. A'BECKETT, J.

I concur in the views of Mr. Justice a'Beckett.

JOHN MADDEN,  
Chief Justice.

Judges' Chambers, Melbourne, 6 December, 1904.

These papers are all based upon a memorandum from the South African Judges dealing with certain objections to appeals to the Privy Council, most of which do not apply to us. Our Order in Council and Supreme Court Act have worked fairly well. There are numerous decisions settling disputed points. Any alterations, therefore, would require to be supported by very cogent reasons before being adopted. Any provisions, however, for expediting the hearing of appeals and reducing the expense should be adopted.

J. H. H.

REPORT OF THE SPECIAL COMMITTEE appointed by the Committee of Counsel of Victoria to consider and report on the file of papers relating to appeals to the Privy Council submitted by the Attorney-General of Victoria.

The Committee have considered the papers submitted with regard to proposed changes in the procedure relating to appeals to the Privy Council, and now beg to submit the following views on the matters referred to therein.

Generally the Committee think that so far as the Australasian group of States, Colonies, &c., is concerned it would be advisable to have a General Order in Council containing a clause enabling the Local Courts to make rules "adapting the general provisions of such Order to the special circumstances" of each member of the group, and providing (to prevent questions of *ultra vires* being raised) that on such rules being approved by a special Order in Council, they shall have the same effect as to that particular member as if embodied in the General Order.

The present Orders in Council for Victoria, South Australia, and Queensland (including British New Guinea and Fiji) are practically identical; those for New South Wales and West Australia are but little different, and the charter for Tasmania, apart from the question of the appealable amount, is also on similar lines. New Zealand has two Orders in Council, one for the Supreme Court and one for the Court of Appeals, but these two also closely resemble those previously mentioned. We do not think it necessary to discuss the local Acts of Parliament in Victoria and South Australia, which also make provision for appeals to the Privy Council. We think the general order suggested above should deal, *inter alia*, with all those matters which the Lords of the Privy Council consider essential or conditions precedent to appeals as of right, leaving minor matters of procedure, &c., to be worked out under the rules.

We would suggest that in the General Order there should be specified, as is now the case in the Order in Council relating to Victoria:—

1. That the judgment should be final or definitive as to appeals as of right.
2. The appealable amount.
3. The time in which application for leave to appeal should be made (as prescribed by the Rules) to the Local Court or a Judge thereof.

\* Report of the Special Committee appointed by the Committee of Counsel of Victoria, herewith.



4. Provision that the Court may direct the judgment to be carried into execution or stay execution.
5. Provision for security in either case as to judgment (including interest).
6. Provision for security to be given by appellant for the prosecution of appeal and for costs.
7. Provision for final order allowing the appeal within a certain time.
8. Provision for disagreement between Judges.
9. General provision for transmission of evidence in the manner prescribed by the rules.
10. Provision that local Courts conform to order of Privy Council. And that in addition thereto there should be specified—
11. Provision that notice should be given of the application for leave to appeal and of the application for the final order allowing the appeal, and that on the latter application appellant and respondent should be bound respectively to give an address for service in London to be embodied in the transcript, and that in default respondent shall not be entitled to any further notice prior to the hearing; the Judicial Committee retaining power to relieve from the consequences of non-compliance with this rule.
12. Provision empowering the local Court to extend the time for giving security or obtaining the final allowance of the appeal.
13. Provision that the case or cases of the parties signed by one of the Counsel who intend to attend at the hearing should be delivered to the Registrar prior to the arrival of the transcript; the Judicial Committee retaining power to grant an extension of time or to permit amendment of the case or cases.
14. Provision empowering the local Supreme Court in any matter final or interlocutory in which it considers that the question involved is one of importance or of great public interest, or is otherwise one which ought to be decided by the Judicial Committee, to grant at its discretion special leave to appeal. A similar provision has been found to work well in India.
15. That the local Court be empowered to make rules adapting the general provisions of the order to the special circumstances of each Colony and in particular to provide for all matters (including changes of parties by death, &c.) arising incidentally up to the time of the transmission of the transcript.

Such rules, after they have been approved by the Privy Council and gazetted, to be of the same effect as far as the particular Colony is concerned as if they had been embodied in the Order in Council.

The Committee think that if the additions suggested are made to an order such as the Victorian or New South Wales Order delay and expense would be so far as possible avoided, and are of opinion that the cases should be in the first place drawn by the local counsel. This could be done by both parties at or about the time that application for leave is made, so that the cases could be forwarded to London, and after being revised by English counsel, could if necessary be returned to Australia during the time of the preparation of the transcript, and would then be ready after being again revised by local counsel to be sent to England for signature about the same time as the transcript. The suggested provision numbered 13 above leaves the parties to decide for themselves as to what extent English and local counsel should co-operate in settling the case, merely providing that it is to be delivered prior to the arrival of the transcript.

If this time is considered too short, a date could be fixed, say, within one month after the arrival of the transcript, but the matter which the Committee wish to emphasise is that the long period of time which necessarily elapses between the application for leave and the transmission of the transcript should be utilised for the purpose of preparing the cases while the matters in dispute in the local Court are fresh in the recollection of the parties and their advisers. The suggestions of the Committee would also have the effect of preventing new points being raised for the first time before the Judicial Committee.

This course, too, would accord with the view of the Lords of the Privy Council that a revision by counsel in near touch with the procedure and practice of the Judicial Committee is desirable.

Having regard to the suggested provisions as to settling cases and notice to the respondents, there seems to be no reason why the hearing should not proceed after the lapse of such time, from the arrival of the transcript, as may be necessary to enable English counsel to prepare their arguments—say two months.

The ancient practice of posting notices, &c., in the Royal Exchange and Lloyd's Coffee House could, if such provisions were adopted, of course be discontinued.

The Committee would also submit for consideration a suggestion that where an appeal book is already printed for use in the Colonial Courts it might be used as an exhibit or appendix to the transcript, which would in that case merely contain the reasons of judges on appeal, and any exhibits which it might be thought desirable to add.

The question to be considered would be whether the effect of the alteration in the Order in Council as to printing would not be more than compensated for by the saving of expense, which in heavy cases—when the type might be kept set up or a sufficient number of appeal books printed in the first instance—would be very great.

The Committee desire to add that they have not in any way dealt with the question of appeals from the High Court of Australia.

The matters raised by the Natal Memorandum have been to a great extent already dealt with; and we desire only to add a few words with reference to some of them. We refer to the numbers in the Natal Memorandum.

(3) Interest can be provided for in the order of the Judicial Committee, and we think that under the Australasian orders security for the estimated amount of such interest can also be provided for. If there is any doubt about it specific provision should be made.

(5) We agree with the Natal Judges in their remarks on this head, but the grievance seems to be one due to the peculiar wording of the Natal Order in Council, and does not arise in Victoria, where the rule is that the judgment is looked at as it affects the interest of the party who is prejudiced by it, and who seeks to relieve himself of it by appeal. *Allan v. Pratt*, 13. A. C. 780.

(6 and 7) We agree with the remarks of the Lords of the Privy Council that the manner in which the petition for leave should be filed or prosecuted and the provision as to the judge or judges before whom it should come should be settled by rules, and be made by the local Court. In Victoria no difficulty has occurred as petitions are heard by a single judge, and one of the judges is always available.

(8) The time fixed for the security seems much too short, and we do not think the respondent should be obliged to state whether he intends to oppose or to give an address for service in London till shortly before the transcript is transmitted. Otherwise the Committee agree generally with the views of the Natal Justices.

(9) Security for local costs incurred in the local proceedings should not be a condition precedent to leave to appeal, but if execution is stayed the security should cover such costs.

(12) The Committee think cases should be drawn up as previously suggested.

(13) The Natal Memorandum, coupled with the suggestion of the Lords of the Privy Council, deals with this matter fully and effectually.

JOHN BURNETT BOX.

H. W. BRYANT,

L. F. CUSSEN,

Members of the Special Committee.

17 November, 1904.

The Council of the Law Institute of Victoria has considered the despatches relating to the suggested amendments in the procedure relating to appeals to the Privy Council.

The analysis by the Lords of the Judicial Committee of the memorandum from the Judges of the Natal Court has been followed, and the following suggestions have reference to the numbered paragraphs in such analysis:—

(1) The Institute agrees with the observations of the Lords of the Judicial Committee.

(4) The Institute endorses the Natal suggestion.

(5)—(a) The Institute is satisfied on this point with the present wording of the Order in Council relating to Victorian appeals.



- (b) Institute endorses the Natal suggestion.
- (6) The like.
- (7) The like.
- (8)—(a) The like.
- (b) Institute agrees with the observations of the Lords that time suggested is too short.
- (c) Institute endorses the Natal suggestion.
- (d) Institute agrees with the observations of the Lords.
- (9) The like.
- (10) Institute endorses the Natal suggestion.
- (11) The like.
- (12) Institute agrees with the observations of the Lords.
- (13) The like.
- (14) The like.
- (15) Institute endorses Natal suggestions.
- (16) The like.

The Institute also agrees that the alteration suggested by the Lords in the procedure where a respondent fails to appear is highly desirable.

The Institute respectfully suggests that the draft of any proposed amending Order in Council should be submitted to the authorities here for consideration by the legal profession.

ARTHUR ROBINSON,  
Hon. Secretary,  
Law Institute of Victoria.

#### SOUTH AUSTRALIA.

SIR,  
Premier's Office, Adelaide, 30 October, 1905.  
REFERRING to previous correspondence on the question of appeals from the Colonies to the Privy Council, I have the honour to inform you that the views of this Government are represented in a report furnished by His Honour the Chief Justice of this State in the matter, a copy of which is forwarded for your information.

I have, &c.,  
A. A. KIRKPATRICK,  
for Premier.

The Honourable  
The Prime Minister of the  
Commonwealth of Australia,  
Melbourne, Victoria.

#### MEMORANDUM BY THE CHIEF JUSTICE.

The cost of appeals generally is not excessive, and the delays complained of are attributable almost entirely to the parties or their legal advisers.

It would be an advantage to consolidate the Orders in Council relating to appeals, especially if they are to be amended. The orders have been reprinted in a collected form and are readily accessible in official publications and text-books. The inconvenience of reference to them has been much exaggerated.

What is most wanted is some method of making the parties themselves proceed more promptly. The difficulty is that where both parties are dilatory an appellate tribunal is helpless to prevent delay. The only apparent remedy is to shorten the time for each successive step, and if the appellant is not sufficiently expeditious, to give the respondent the carriage of the proceedings or to dismiss the appeal.

Generally I agree with the "Observations and Suggestions" made by the Registrar of the Judicial Committee on the Memorandum by the Chief Justice and Mr. Justice Mason of the Supreme Court of Natal. Mr. Buchanan, the Master of this Court, has given me his valuable assistance in considering these documents in detail. We only deem it necessary to offer the following additional remarks. (The bracketed numbers below correspond with those of the Registrar's observations):—  
(5a) I agree that the Supreme Courts in Australia, like the Indian Courts,

should have concurrent jurisdiction to give special leave to appeal in cases below the appealable amount. That much time would be saved in such cases is apparent from Indian experience.

(6) Under the Order in Council applicable to South Australia, the motion or petition for leave to appeal has to be set down to be heard in 14 days.

(8a) By the Order in Council of 16th March, 1905, an appellant is now able, without taking out Appearance Orders, to set down an appeal *ex parte* under conditions which ensure that the respondent has received ample notice and has had reasonable time to appear. A frequent source of delay has thus been done away with.

(8b) Security has to be given in three months thereafter—which is also the period allowed on appeals from the Supreme Courts to the High Court of Australia. I think three months too long, and that one month would be sufficient, power being given to the Court or a Judge to extend the time.

(8c) No time is limited for the preparation of the transcript, but one month would be ample in ordinary cases—power to enlarge it being given.

(8d) I do not agree with the Registrar that it is necessary to allow the respondent time to get advice in England before deciding to resist the appeal. On the other hand, I respectfully differ with the Judges of the Supreme Court of Natal that the respondent should be required to notify the name of his English attorney.

(12) Clearly the present practice of requiring the cases to be signed by the counsel who are to argue them should be maintained.

(14) The practice here is to have the record printed in England, as cheaper and more expeditious, and because the necessary re-editing of the documents may lead to unnecessary matter being excluded.

S. J. WAY,  
Chief Justice.

Judges' Chambers,  
6 October, 1905.

#### COMMONWEALTH OF AUSTRALIA.

(976/06.)

#### Re PRIVY COUNCIL APPEALS.

ATTORNEY-GENERAL,

THESE papers have again been placed before me. I do not think the Commonwealth Government is in a position to make any suggestion on the subject. There is no appeal as of right from the High Court to the Privy Council, nor is there likely to be any such appeal.

The subject of appeal from a State Supreme Court acting in Federal Jurisdiction is now under consideration by the Privy Council itself.

Under the circumstances I see nothing upon which I can advise.

I. A. I.

6 October, 1906.

The Secretary,  
Department of External Affairs,  
R. R. Garran,  
Secretary, Attorney-General's Department,  
8 October, 1906.

(No. 05/4213.)

The SECRETARY,  
Attorney-General's Department,

THE accompanying replies which have been received from the Premiers of the several States on the subject of Appeals from the Colonies to the Privy Council, are forwarded herewith for information. Will you be good enough to advise me as early as practicable whether there is any desire on the part of your department to submit any observations on the subject for transmission to the Imperial authorities with the replies received from the States?

ATLEE HUNT.

21 November, 1905.



PRIME MINISTER.

(No. P.M. 06/4489.)

The SECRETARY,  
Attorney-General's Department,

THE decision of the Privy Council in the appeal from the High Court having now been received and forwarded to you, I am directed to ask whether it is desired to add anything to the Attorney-General's opinion of 6th October last.

18 January, 1907.

There is nothing further to add.

ATLEE HUNT.

8 March, 1907.

L. E. GROOM.

29866

No. 27.

AUSTRALIA.

COLONIAL OFFICE to PRIVY COUNCIL OFFICE.

SIR,

Downing Street, 28 August, 1907.

WITH reference to your letter of the 7th of March last,\* and in continuation of the letter from this Department of the 7th of October, 1905,† I am directed by the Earl of Elgin to transmit to you to be laid before the Lord President of the Council a copy of a despatch‡ from the Governor-General of Australia transmitting papers containing the views of his Government and of the Governments of the several Australian States on the subject of appeals to the Privy Council from the Colonies.

I am, &amp;c.,

H. BERTRAM COX.

26067

No. 28.

COLONIAL OFFICE to PRIVY COUNCIL OFFICE.

SIR,

Downing Street, 18 December, 1907.

WITH reference to your letters of the 7th and 15th of March,§ I am directed by the Earl of Elgin to transmit to you, to be laid before the Lord Chancellor, a copy of the finding|| of the recent Colonial Conference with regard to the question of Judicial Appeals.

Lord Elgin would be glad if action could be taken with a view to carrying out the resolutions submitted by the Governor of the Cape Colony as far as possible in accordance with the statement made by the Lord Chancellor at the Conference (*vide pp. 218-220*) of [Cd. 3523].

I am, &amp;c.,

H. BERTRAM COX.

IV.

(Resolutions VI.—VII.)

Australian Preference.

18367

No. 29.

AUSTRALIA.

MR. A. DEAKIN to COLONIAL OFFICE.

(Received 24 May, 1907.)

[See No. 30.]

Commonwealth of Australia, 72, Victoria Street,

Westminster, S.W., 22 May, 1907.

MY LORD,

In respect to the Bill granting certain preferences to British goods carried

\* Page 179 of [Cd. 3524], May, 1907.  
§ See pages 179 to 203 in [Cd. 3524].

† 34414: not printed.

‡ No. 26.

|| See page vi of [Cd. 3523], May, 1907.

upon British ships when entering Australia, I shall be obliged if you will permit it to remain simply reserved pending His Majesty's consent until further communications can be exchanged. I hope during the ensuing session to obtain the approval of Parliament to a proposal which will render the submission of the Bill to His Majesty unnecessary.

I have, &amp;c.,

ALFRED DEAKIN.

18367

No. 30.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(No. 135.)

MY LORD,

Downing Street, 6 June, 1907.

WITH reference to my despatch, No. 242, of the 7th of December last,\* regarding the Customs Tariff (British Preference) Bill of the Commonwealth Parliament, I have the honour to transmit to you, for the information of your Ministers, a copy of a letter† from your Prime Minister asking that action with regard to the Bill may be suspended pending the exchange of further communications between the Imperial and Commonwealth Governments.

2. In these circumstances I shall refrain from tendering any advice to His Majesty in respect to the Bill.

I have, &amp;c.,

ELGIN.

3103

No. 31.

AUSTRALIA.

COMMONWEALTH AGENCY to COLONIAL OFFICE.

(Received 28th January, 1908.)

Commonwealth of Australia, 72, Victoria Street,  
Westminster, S.W., 25th January, 1908.

NEW AUSTRALIAN TARIFF.

Captain R. Muirhead Collins, Representative of the Commonwealth in London, has received the following statement in connection with the above:—

STATEMENT showing the extent of the preference to the United Kingdom on certain items in the Tariff as passed by the House of Representatives (13th December, 1907).

The table shows the percentage of the total duty on the goods enumerated, which is remitted in favour of British goods.

The item numbers shown are as they are printed in the Tariff, revised to 13th December, 1907.

Item Number and Goods.								Percentage of Preference.
35.	Biscuits	...	...	...	...	...	...	33½
40.	Candles (A)	...	...	...	...	...	...	25
	(B)	...	...	...	...	...	...	33½
45.	(A) Confectionery	...	...	...	...	...	...	16½
	(C) Cocoa, &c.	...	...	...	...	...	...	11½
	(E) Cocoa, Shells, &c.	...	...	...	...	...	...	33½
	(F) Cocoa, Butter, &c.	...	...	...	...	...	...	14½
69.	Jams, Jellies	...	...	...	...	...	...	25
79.	Matches	...	...	...	...	...	...	50
83.	Milk (A) (1)	...	...	...	...	...	...	25
	(A) (2)	...	...	...	...	...	...	20
	(B)	...	...	...	...	...	...	25

\* No. 2 in [Cd. 3339], March, 1907.

† No. 29.



Item Number and Goods.	Percentage of Preference.
93. Pickles, &c. ... ..	20
Curry, manufactured ... ..	28½
103. Starch ... ..	20
104. Starch Flours ... ..	20
134. Trimmings, &c. ... ..	40
139. Arms—Guns and Rifles ... ..	33½
140. (A) Iron, Galvanized, Corrugated ... ..	33½
(B) Galvanized, not Corrugated, &c. ... ..	50
141. Lamps and Lampware ... ..	40
144. Mangles, Wringers, &c. ... ..	37½
159. Adding and Computing Machines, Cash Registers and Automatic Weighing Machines ... ..	50
180. Rails, Fishplates, &c. ... ..	33½
181. Iron Pipes ... ..	25
234. Oils, Bottled, &c. ... ..	25
236. Paints and Colours ... ..	12½
Colours, dry ... ..	20 to 25
250. Glass, Plate ... ..	9
do. Sheet ... ..	11
259. Bottles, empty ... ..	28½
261. Glue ... ..	16½
Cements, &c. ... ..	16½
Gelatine ... ..	25
299. Furniture ... ..	28½
304. Articles of Wicker, Bamboo and Cane ... ..	28½
305. Basketware, n.e.i. ... ..	28½
313. Lasts and Trees, Wooden ... ..	28½
356. Paper and Stationery—	
(C) Australian Directories, Guides, &c. ... ..	33½
(I) Brown Paper, &c. ... ..	10
(J) Cartridge and Blotting ... ..	10
(L) Bags ... ..	6½
(M) Cardboard, Pasteboards, &c., and Paperhangings ... ..	25
(P) Coated Boards ... ..	20
384. Pianos:—	
(A) Grand and Semigrand ... ..	16½
(B) Upright ... ..	16½
415. Pipes (Smoking, Cigar and Cigarette Holders, &c.) ... ..	20

## V.

### Appointment of Trade Commissioners in Colonies and Supply of Information respecting Colonial Legislation affecting Trade Interests.

27120

No. 32.

TREASURY to COLONIAL OFFICE.

(Received 30th July, 1907.)

[Answered by No. 33.]

SIR,

Treasury Chambers, 29th July, 1907.

I AM directed by the Lords Commissioners of His Majesty's Treasury to transmit to you herewith a copy of a letter from the Board of Trade, dated the 9th instant, asking for sanction to a provision of about £10,000 to cover the cost of the appointment of four commercial agents, to be accredited to the Governments of Canada, Australia, New Zealand, and the South African Colonies, respectively,

of a travelling agent, and of more local correspondents in the self-governing Colonies, all of which officers would apparently be responsible to the Board of Trade and be provided for in the vote for that Department.

I am to state that, before coming to any decision on this application, my Lords would be glad to be favoured with any observations which the Earl of Elgin may have to make upon the proposal.

It may be of service to the Secretary of State in considering the Board of Trade letter, to have before him a copy of a memorandum by Sir Eldon Gorst and Mr. Llewellyn Smith upon the working of the system of appointing commercial attachés or agents in foreign countries, which system has now been modified in the sense recommended in the memorandum (*vide* pages 428-430 of the Civil Service Estimates, 1907-8); and I am to enclose a copy of the memorandum accordingly.

I am, &amp;c.,

WALTER RUNCIMAN.

Enclosure 1 in No. 32.

(E. 19109.)

Board of Trade, 7, Whitehall Gardens,

London, S.W., July 9, 1907.

SIR,

I AM directed by the Board of Trade to advert to previous correspondence on the subject of the provision made in the Civil Service Estimates for remuneration to commercial correspondents of this Department in British Colonies and Possessions, and to state, for the information of the Lords of the Treasury, that the question of the nature and extent of the official commercial representation of the Mother Country in the self-governing Colonies is one which received much attention at the recent Imperial Conference.

Their Lordships will be aware that the absence of such representation of the United Kingdom in the Colonies has, in view of the extensive commercial representation of foreign countries therein, for a long time been the subject of criticism, especially as it has seemed probable that part of the commercial success of those countries in our Colonies has been due to the assistance afforded to their traders by their Consular representatives on the spot, coupled with the fact that British traders have had no such assistance at their disposal. This point was alluded to in the Report of the Departmental Committee on Commercial Intelligence of 1897-8, at which time, however, it was doubted whether difficulties might not arise in the way of making any permanent official appointments of a character corresponding to the foreign Consular posts on account of Colonial feeling.

The only method, therefore, by which this lack of home representation in the Colonies has been met up to the present is by the appointment of a certain number of correspondents of the Board's Intelligence Branch in some of the Colonies, the provision for which (amounting for 1907-8 to the sum of £2,000) has been inscribed in the Estimate for this Department. The doubts which the Committee of 1897-8 entertained, however, have now been altogether removed by the fact that the Colonies themselves, through their representatives at the recent Conference, have expressed themselves as in favour of a considerable extension of the present system of imperfect representation and as desiring the presence in their midst of duly accredited commercial representatives of the Mother Country. In this connection reference may be made to the observations of Sir Joseph Ward, the Prime Minister of New Zealand, which appear at pages 272-3 of the Minutes of the Proceedings of the Conference [Cd. 3523]; to the remarks by the Chancellor of the Exchequer appearing at page 323 of the same publication; and to those of the President of this Department appearing at pages 390-1.

In view of the proceedings at the Conference, the Board have consulted their Advisory Committee on Commercial Intelligence with regard to the whole matter, with the result that the following resolutions have been arrived at by the Committee and laid before the Board:—

- (1) That it is desirable to extend and improve the means of obtaining trustworthy commercial information with respect to the self-governing Colonies for the benefit of traders in the United Kingdom.
- (2) That, in addition to local commercial correspondents in each of the principal industrial centres in the Colonies, commercial agents of



standing and remuneration generally similar to those of Consuls-General should be appointed in each of the principal self-governing Colonies or groups of Colonies.

- (3) That it is also desirable to appoint a carefully selected and well-paid travelling agent, who shall pay periodic visits to each of the self-governing Colonies, and spend a portion of each year in the United Kingdom, his duties being to keep in touch with traders, both in the United Kingdom and the Colonies, and to supervise and report upon the methods pursued by the local agents and correspondents.
- (4) That the question of extending the same system to other parts of the Empire should be reserved for further consideration.

In the policy recommended in these resolutions the Board of Trade entirely concur, and a general statement of the intentions of His Majesty's Government based thereon was made by the President in the House of Commons, after consulting the Chancellor of the Exchequer, in the course of the recent debate on the Board of Trade Estimates. I am, consequently, to ask you to be good enough to cause the matter to be laid before the Lords of the Treasury with a view to the necessary financial provision being made to give effect to the scheme. On the question of the probable charge for the additional services proposed, I am to say that it is desired to provide as soon as possible for carrying out Resolution No. 2 of the Committee in respect of British North America, including the Dominion of Canada and Newfoundland, the Commonwealth of Australia, and New Zealand, as well as for the special appointment contemplated by Resolution No. 3. The question of appointing a permanent commercial agent in South Africa, though less urgent, will also come up for consideration shortly. The commercial agents contemplated by Resolution No. 2 must be officers of high standing, and capable of properly representing the commercial interests of the United Kingdom before the Colonial Governments to which they will be accredited. It is thought that their salaries could not be fixed at a minimum of less than £1,000 a year each, in addition to which, office rent, travelling and other expenses, and clerical assistance could not be estimated at a lower figure than £400 a year each. The travelling agent contemplated by Resolution No. 3 would necessarily have to be an officer of exceptional qualifications and corresponding salary. Probably it may be necessary to offer at least £1,500 a year to secure the right man, and his expenses, involving travelling to and from such distant regions, could not be estimated at less than £500 a year. Some additional provision will also be requisite for the extension of the number of local correspondents in the Colonies and for the revision in certain cases of their scale of remuneration.

Subject to modifications which may be rendered necessary as the plan is developed, the following approximate estimate is submitted of the probable minimum addition to the vote for this Department which will be requisite for the first complete year, including provision on account of South Africa:—

Four commercial agents accredited to the Governments of Canada, Australia, New Zealand, and the South African group of Colonies	£4,000
Office rent, clerical assistance, and expenses of the foregoing (say, £400 a year each)	1,600
Salary of travelling agent	1,500
Expenses of travelling agent	500
Additional sum requisite for completion and extension of the plan of local correspondents of the Intelligence Branch in the self-governing Colonies	2,000
	<hr/> £9,600

Or, say, £10,000 in addition to the amount (£2,000) already included in estimates for correspondents in the Colonies, making a total of £12,000.

It is possible that this sum will require to be somewhat increased in future years if the system established meets with success and is extended.

So far as regards the year 1907-8, it is not anticipated that arrangements can be completed for the appointment of any of the new officers and for their entering upon their duties before the autumn, and the travelling commercial agent will probably not be appointed before the end of the present calendar year. The

additional expenditure for the current financial year beyond that appearing in the Estimates laid before Parliament, to which I am to ask that the sanction of the Lords of the Treasury may be given, will, therefore, not exceed about £3,000.

I am to ask that their Lordships' sanction may be given to the above proposals.

I am to add that as these officials will be paid out of voted money, and will not be pensionable, the Board of Trade will be glad if the Lords Commissioners will be so good as to assent to these situations being added to Schedule B of the Order in Council of June 4, 1870.

I have, &c.,

H. LLEWELLYN SMITH.

The Secretary,  
Treasury.

Enclosure 2 in No. 32.

SIR E. GREY,

In accordance with the instructions contained in the letter to the Board of Trade of the 17th March last, we have examined the question whether the results derived from the past expenditure on commercial attachés and commercial agents have been such as to warrant the continuance of the system now in force, and we have the honour to report as follows:—

In a letter to the Treasury of the 24th November, 1904, Lord Lansdowne stated that he "was very sensible of the tentative character of all proposals for collecting and disseminating information for the benefit of British trade," and that he considered that "the whole question will, before long, require a thorough examination, with the object of adopting a scheme which shall be at once comprehensive and permanent;" and the result of an investigation on these lines has shown that, while existing arrangements have been of material assistance to British trade and supplied much useful information, considerable modifications of system are necessary if a really efficient organization is required.

The defects of the present system may be summed up as follows:—

The commercial attaché, though attached to a Diplomatic Mission, has no regular career or prospect of advancement within the Diplomatic Service. He cannot, of course, be an expert in any particular industry, still less in all, though he may be expected to possess a good general knowledge of trade conditions in the countries where he serves, and to be familiar with their languages. It is, however, equally necessary that he should be well acquainted with industrial developments in his own country, and in touch with the more important branches of British manufacture. He should also be close in touch with the Departments of the Home Government dealing with commercial matters. Long and continuous residence in a foreign country is not, however, favourable to the attainment of these objects. Again, in the Missions which are the headquarters of a commercial attaché there is a tendency to devolve on him all the current commercial work. He thus becomes one of the ordinary staff, his absence from headquarters causes inconvenience and is not encouraged, and his visits to commercial and industrial centres within his district, which should be the most instructive part of his duties, grow few and far between.

Again, the appointment of special officials to deal with commercial questions deprives the staff of the Diplomatic Missions to which they are attached of much valuable experience and training in this branch of their work, and, in a general way, conveys the impression to the younger members of the Diplomatic Service that subjects connected with trade are too technical for their comprehension and altogether beyond their scope. The Secretaries are not, therefore, in the earlier stages of their career, properly grounded in the details of commercial work, though this work must necessarily become one of their chief preoccupations when they rise to the charge of a Mission.

The duties of commercial agents have never been strictly defined. They consist in watching and reporting on the commerce, industries, and products of special districts, and in answering inquiries on commercial subjects. The expectation that British firms would utilize their services for the purpose of conducting special inquiries at a distance has not been realized. A large number of applications for commercial information have, however, received attention. The present arrangements for commercial agents are entirely temporary and provisional, and we can



see no reason why their functions should not be equally well discharged by the Consular staff, strengthened where necessary for the purpose.

With a view of obviating the defects pointed out above, and of providing a foundation for a more efficient system, we have the honour to make the following recommendations:—

1. The existing commercial attachés residing in European capitals, including the present commercial agent in Russia, who should be made a commercial attaché, to have their headquarters in London, and to divide their time between special investigations abroad, particularly in districts of interest to British manufacturers, work in the Board of Trade or the Commercial Department of the Foreign Office, and visits to manufacturing districts in the United Kingdom. This measure would not be applied to the commercial attaché at Paris, as it would not be practicable to make any change in the position of Sir H. A. Lee, who holds the dual appointment of commercial attaché and Resident British Director of the Suez Canal Company in Paris.

We think that, in view of the very wide areas which are at present assigned to commercial attachés, it would not be appreciably more inconvenient that they should start on their travels from London than from some centre within those districts, while the value of their inquiries would be very greatly increased if definitely directed to special objects by instructions from the Department or from the Commercial Intelligence Committee, or by the experience gained in systematic visits to British commercial centres. An additional advantage would be that it would be unnecessary to define rigidly the districts to be covered by each commercial attaché, who might be directed from time to time to travel in any country with whose language he was acquainted.

2. The commercial attachés at the more distant posts and in the countries where special qualifications other than commercial are the chief requirements, such as Turkey, China, &c., to continue to have their headquarters in those countries, but to be relieved so far as possible of the current commercial work at the Embassies and Legations, to be required to move about freely within their districts, and to pay periodical visits *on duty* to the principal centres of industry in this country, and to the Departments charged with commercial matters. These visits ought, we think, to be annual in the case of the commercial attaché at Constantinople, and at least biennial in that of the commercial attachés in the Far East.

3. The present temporary arrangements for commercial agents to be discontinued, and the functions now performed by these agents to be assigned to the members of the Consular Service, which must be increased in places where the commercial work necessitates such a course. It is clear that, owing to the increase of commercial inquiry at New York, the Consulate-General cannot dispense with an extra officer, and that a salaried Consular officer would be required in Switzerland to take the place of Mr. Milligan.

4. The current commercial business of the Diplomatic Missions, including many of the duties hitherto carried out by the commercial attachés, to be in charge of a specially selected member of the diplomatic staff, designated by the Head of the Mission, and receiving a special allowance whilst actually discharging his functions. It is estimated that an annual sum of £1,000 would cover the necessary expenditure. It is important that the member of the staff selected for this purpose should, while so acting, have some distinctive title such as "Secretary in charge of Commercial matters," so that the commercial community may clearly realize that there is a special officer in each Mission with whom they can communicate direct on commercial questions.

E. GORST.  
H. LLEWELYN SMITH.

July 6, 1906.

27120

No. 33.

COLONIAL OFFICE to TREASURY.

SIR,

Downing Street, 31st August, 1907.

I AM directed by the Earl of Elgin to acknowledge the receipt of your letter

of the 29th ultimo\* with regard to the request of the Board of Trade for sanction to a provision of about £10,000 to cover the cost of the appointment of four commercial agents, to be accredited to the Governments of Canada, Australia, New Zealand, and the South African Colonies, respectively, of a travelling agent, and of more local correspondents in the self-governing Colonies.

I am to request you to inform the Lords Commissioners of the Treasury that Lord Elgin agrees generally in what is recommended by the Board of Trade. A very distinct opinion in favour of the scheme was expressed at the recent Colonial Conference and an undertaking was practically given on behalf of His Majesty's Government that action of this nature would be taken. His Lordship is of opinion that the appointments should be made by the Board of Trade with the help of the advice of the Commercial Intelligence Committee, on which this Department is represented, and that the Secretary of State for the Colonies should be consulted with regard to the appointments.

Lord Elgin proposes to suggest to the Board of Trade that the Commercial Intelligence Committee should at once draw up the instructions which they consider should be issued to the commercial agents and travelling inspector; and I am to state that, as soon as their Lordships have signified their sanction to the scheme and the instructions have been drawn up, his Lordship will communicate with the self-governing Colonies with a view to securing their adherence to the detailed scheme before appointments are actually made.

I am, &c.,  
C. P. LUCAS.

30136

No. 34.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.†

[Copy to Board of Trade, 4th September, 1907. L.F.]

[Answered by Nos. 35, 36, 37, 38, 40, 41.]

(Miscellaneous.)

MY LORD,

Downing Street, 4th September, 1907.

SIR,

(1) 276,

(2) 113,

(3) 52,

(4) 57,

(5) 102,

(6) 60,

(1) and (2) Your Excellency

(4) and (7) Your Lordship

(3), (5), (6), and (8) you

of June, 1906,‡ [To all] I have the honour to request that

will state to your Ministers that serious difficulty is experienced by the Board of Trade through the present inadequate supply of early information relative to new Colonial legislation affecting the trade interests of the United Kingdom, and British manufactures for Colonial markets in particular; and that I have been asked to approach your Government with a view to arriving at an arrangement whereby important information may be placed at the Board's disposal at an earlier date than is now the case.

I have, therefore, to enquire whether your Government would be prepared to undertake to furnish me with telegraphic summaries of important bills of this nature, including finance resolutions, either confidentially before their introduction, whenever practicable, or at the time of their introduction, so as to give His Majesty's Government an opportunity of offering observations, particularly in cases where treaty rights or important British industries may be affected, besides forwarding copies of the Bills themselves by the first opportunity; and also whether they would be good enough to inform me by telegraph as soon as the Bills are passed, in order

\* No. 32.

† (1) Canada, (2) Australia, (3) Newfoundland, (4) New Zealand, (5) Cape of Good Hope, (6) Natal, (7) Transvaal, and (8) Orange River Colony.

‡ 13511: not printed.



that the Board of Trade, and through them the British public, may receive the earliest authentic information.

[To Australia only. This matter has been brought particularly to the notice of the President of the Board of Trade in connection with the new Australian Tariff, which was introduced in the Federal legislature on the 9th ultimo, and came into force immediately, subject to any amendments that might subsequently be decided upon. His Majesty's Government were altogether unaware of this tariff until an announcement of its introduction appeared in the daily papers of the 9th ultimo, and were unable to learn any details until a list of its provisions was published through Reuter's Agency in the "Morning Post" of the 12th ultimo, and it was not until the receipt of your Lordship's telegram of the 13th ultimo\* that His Majesty's Government were in possession of official information with regard to it. Consequently, the Board of Trade have not been in a position to undertake any adequate examination of the tariff, and the President of the Board has been unable to give satisfactory answers to questions asked in the House of Commons on the subject; while British manufacturers for the Australian market have been taken completely by surprise, owing to the general lack of information as regards the tariff, and the Board has not been able to afford proper assistance in the matter. Your Ministers will doubtless agree that some means should, if possible, be provided whereby His Majesty's Government would receive, on such an occasion, adequate information at the earliest possible moment.]

I have, &c.,  
ELGIN.

37905

No. 35.

ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 26th October, 1907.)

(No. 78.)

Governor's Office, Bloemfontein, Orange River Colony,  
7th October, 1907.

MY LORD,

I HAVE the honour to acknowledge the receipt of your Lordship's despatch, Miscellaneous, of the 4th ultimo,† regarding the desirability of early information being supplied to the Board of Trade relative to new Colonial legislation affecting the trade interests of the United Kingdom and British manufactures for Colonial markets in particular.

2. Your Lordship's despatch, now under reply, will be laid before the new Government for their consideration at the earliest opportunity.

I have, &c.,  
HAMILTON GOOLD-ADAMS,  
Governor.

40184

No. 36.

TRANSVAAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 16th November, 1907.)

(No. 437.)

MY LORD, Governor's Office, Johannesburg, 28th October, 1907.

WITH reference to your Miscellaneous despatch of the 4th September,† I have the honour to enclose, for your information, a copy of a minute from Ministers on the subject of new Colonial legislation.

I have, &c.,  
SELBORNE,  
Governor.

\* 28831: not printed.

† No. 34.

Enclosure in No. 36.

(Minute No. 554.)

Prime Minister's Office, Pretoria, October 24, 1907.

WITH reference to His Excellency the Deputy-Governor's minute, No. 53/2/07, of the 27th ultimo, Ministers have the honour to state that they will be glad to furnish the Right Honourable the Secretary of State for the Colonies with the information asked for in his despatch, Miscellaneous, of the 4th of September, 1907, relative to new Colonial legislation (including finance resolutions) affecting the trade interests of the United Kingdom and British manufacturers for Colonial markets in particular, and they have made arrangements for this to be done.

LOUIS BOTHA.

41156

No. 37.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 23rd November, 1907.)

(No. 329.)

MY LORD,

Government House, Cape Town, 4th November, 1907.

I HAVE the honour to transmit to your Lordship, with reference to your despatch, Miscellaneous, of 4th September,\* a copy of a minute from Ministers on the subject of the supply of early information relative to new Colonial legislation affecting the trade interests of the United Kingdom.

I have, &c.,  
WALTER HELY-HUTCHINSON.

Enclosure in No. 37.

MINISTERS to GOVERNOR.

(Minute No. 1/616.)

Prime Minister's Office, Cape Town, November 1, 1907.

MINISTERS have the honour to acknowledge the receipt of His Excellency the Governor's Minute, No. 697, of the 24th September, forwarding, for their consideration, a despatch received from the Secretary of State, expressing a desire that some arrangement may be made whereby important information relating to new Colonial legislation affecting trade interests of the United Kingdom and British manufacturers for Colonial markets, should be placed at the disposal of the Board of Trade at an earlier date than is now the case.

Ministers fully appreciate the desire of the Imperial Government in this respect, and are quite alive to the importance of the matter. It appears to them, however, that in view of what they believe to be the intention of the Home Government to appoint Consuls-General in the various large groups of Colonies (as urged by the recent Colonial Conference), the matter is one that would properly fall within the scope of such an office. Should, however, there be any delay in the appointment of suitable officers to represent British trade interests in British Colonies, this Government will endeavour to satisfy the wishes of the Board of Trade.

At the same time, Ministers would point out that a Bill may be drafted in such a manner, or may contain provisions so many, varied, and complicated, that it would be impossible to indicate the effect in a brief summary, should a summary be required by the Board of Trade in the form of cabled advice. It follows, moreover, that considerable expense will necessarily be incurred, as it would be inadvisable to sacrifice lucidity for the sake of brevity in such important matters.

It must further be remembered that, as often as not, Bills are considerably amended during their passage through Parliament, and if the Board of Trade require to be posted with an immediate report, giving the nature of such amendments, the cost of cabling would be considerable.

Ministers would, therefore, suggest that His Majesty's Government be asked to state more precisely the extent of the information desired by the Board of Trade, should they wish this Government to act in these matters pending the appointments referred to.

L. S. JAMESON.

\* No. 34.



business with Australia have representatives in the Commonwealth who would undoubtedly communicate to their principals any changes likely to affect their business as soon as they were made known. British merchants are also in constant communication with our officer in London. Yet they do not appear to have approached him with any requests for the kind of information that seems to have been sought for after the event.

14. The Government are sincerely anxious to meet the wishes of the Board of Trade now that they have been expressed, and as far as possible, but on consideration of the proposals put forward in that despatch, it seems doubtful if the general undertaking suggested could be of real value. Bills introduced, especially those dealing with important or complicated subjects, are usually of considerable length, and as their provisions are largely interdependent, they would need to be telegraphed textually. Financial resolutions affecting trade are but rarely introduced, and would probably be difficult to appreciate if unaccompanied by elaborate commentaries unnecessary to those acquainted with Australian conditions, but essential for their proper understanding by those not so acquainted.

15. For the protection of the revenue proposals for altering the tariff require to be kept absolutely secret until they are actually brought into force. Prior information regarding them could not be furnished without grave risks. The further suggestion that the whole of the tariff schedules should have been cabled would have involved the transmission of approximately 17,000 words.

16. Since the publication by the Foreign Office of the volume containing Commercial Treaties in force, and the additional information anticipated in the future, the Government will have means of acquainting themselves with the obligations of the Empire to foreign communities before shaping their legislative proposals.

17. It is regretted that it has not yet been found practicable to have the Commonwealth represented in London by a High Commissioner, but his appointment is not likely to be much longer delayed. In addition to their other sources of information, it is hoped that the Board of Trade may then be enabled by this means to secure prompt replies to all inquiries they may make in points of detail affecting the trade of the Commonwealth. Even with the present comparatively limited representation of Australia in London, facilities exist for obtaining answers to most questions of this kind as they arise or for framing them to the best advantage. If the Colonial Office or Board of Trade will communicate with Captain Collins, that officer will promptly afford all the information in his possession, and, whenever necessary, cable for more.

Governor-General

His Excellency Lord Northcote, G.C.M.G., G.C.I.E.,  
&c., &c., &c.

I have, &c.,  
ALFRED DEAKIN.

41156

No. 39.

CAPE OF GOOD HOPE.  
COLONIAL OFFICE to BOARD OF TRADE.  
[See No. 48.]

SIR,

Downing Street, 2nd December, 1907.

WITH reference to the letter from this Department of the 14th October,\* I am directed by the Earl of Elgin to transmit to you, to be laid before the Board of Trade, a copy of a despatch† from the Governor of the Cape of Good Hope forwarding a minute from his Ministers in reply to the suggestion for an arrangement for forwarding early information with regard to new Colonial legislation affecting trade interests of the United Kingdom and British manufacturers for Colonial markets.

I am to refer to the last paragraph of the Ministers' minute, and to say that Lord Elgin would be glad to receive a more precise statement than the Board has yet furnished as to the extent of the information desired.

I am, &c.,  
C. P. LUCAS.

\* 32991: not printed.

† No. 37.

43840

No. 40.

NEWFOUNDLAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 16th December, 1907.)

(No. 150.)

MY LORD,

Government House, St. John's, 29th November, 1907.

REFERRING to your Lordship's despatch, "Miscellaneous," of date 4th September last,\* intimating the difficulties experienced by the Board of Trade through the present inadequate supply of early information relative to new Colonial legislation affecting the trade interests of the United Kingdom and British manufacturers for Colonial markets in particular, and enquiring whether this Government would undertake to furnish your Lordship with telegraphic summaries of important Bills of this nature, including Finance Regulations [Resolutions?], "so as to give His Majesty's Government an opportunity to offer observations" thereon, I have the honour to enclose copy of a letter from my Prime Minister from which it will be gathered that this Government will be prepared to comply with the above request provided that this is done at the expense of His Majesty's Government; and that the freedom of the Colony to legislate for its own affairs is in no way curtailed by such practice.

I have, &c.,  
WM. MACGREGOR.

Enclosure in No. 40.

Colonial Secretary's Office, St. John's, Newfoundland,

November 21, 1907.

SIR,

REFERRING to despatch, "Miscellaneous," of date 4th September last, received by Your Excellency from the Right Honourable the Secretary of State for the Colonies, intimating the serious difficulties experienced by the Board of Trade through the present inadequate supply of early information relative to new Colonial legislation affecting the trade interests of the United Kingdom, and British manufacturers for Colonial markets in particular, and enquiring whether this Government would be prepared to undertake to furnish him with telegraphic summaries of important Bills of this nature, including Finance Resolutions, "so as to give His Majesty's Government an opportunity to offer observations," I have the honour to intimate that your Ministers will be very pleased to comply with the request of His Majesty's Government as conveyed in the said despatch, it being clearly understood that their doing so is entirely voluntary, and that any observations which His Majesty's Government may see fit to make from time to time on the information so furnished them are entirely of an advisory character, and that the supplying of such information under the circumstances is not to be regarded as in any way recognising the right of His Majesty's Government to control the freedom of the Colony to legislate on all matters relating to its own affairs, or limiting the right of the Colony to pursue any policy which may be the subject of legislation, and which the Government may deem to be in the interests of the Colony generally.

Your Ministers assume that the cost of telegraphic transmission of such information will be defrayed by either the Board of Trade or His Majesty's Government.

I have, &c.,  
R. BOND,  
Colonial Secretary.

His Excellency the Governor.

\* No. 34.



43849

No. 41.

CANADA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 16th December, 1907.)

[Answered by No. 53.]

(No. 482.)

MY LORD,

Government House, Ottawa, 3rd December, 1907.

In reply to your Lordship's despatch of the 4th of September, marked "Miscellaneous,"\* in which you enquired whether the Canadian Government would be prepared to furnish, for the use of the Board of Trade, early information relative to new Canadian legislation affecting the trade interests of the United Kingdom, I have the honour to enclose copy of an approved minute of the Privy Council pointing out the difficulty of furnishing such information, and containing their suggestions as to the method by which it should be supplied.

I have, &c.,  
GREY.

Enclosure in No. 41.

EXTRACT from a Report of the Committee of the Honourable the Privy Council approved by the Governor-General on October 12, 1907.

(P.C. 1654. M.)

The Committee of the Privy Council have had under consideration a despatch, herewith, dated 4th September, 1907, from the Secretary of State for the Colonies, having reference to the serious difficulty experienced by the Board of Trade through the present inadequate supply of early information relative to new Colonial legislation affecting the trade interests of the United Kingdom and British manufacturers for Colonial markets in particular, and asking that an arrangement be arrived at whereby important information may be placed at the Board's disposal at an earlier date than is now the case.

The Minister of Trade and Commerce, to whom the said despatch was referred, observes that there are many departments more or less concerned in the inception and administration of Acts of Parliament which affect trade interests, and it is not, therefore, possible for any one department to have knowledge in advance of contemplated legislation. Various measures, some of which may never be introduced in Parliament, are discussed at times through the press, and in many instances Bills may be introduced and very materially altered before they become law.

It would, therefore, be impracticable to charge any one department of the Canadian Administration with the duty of advising His Majesty's Government of changes contemplated or put into effect, nor, from the nature of the circumstances, would it be at all times possible to acquaint His Majesty's Government with the exact information required, in view of the fact that Canadian officials are not always familiar with the precise requirements of the Imperial Authorities.

The Minister states that in his opinion a work of this kind could be more advantageously placed in the charge of some one official—a British Commercial Agent residing in Canada, for example, or a Commercial Attaché of the Governor-General's Office. Such official, knowing the requirements of His Majesty's Government, could keep himself informed of public opinion, and especially in connection with any measure of a private or official nature which might be introduced into Parliament. He would have easy access to the various Government Departments, and any information which was not held to be confidential could be placed at his disposal. There would doubtless be information also of a more or less private nature, which could be given him for the confidential information of His Majesty's Government.

Not infrequently the various Canadian Departments having knowledge of such

\* No. 34.

official resident in Canada, could forward to him such information as might be thought of interest for transmission to His Majesty's Government.  
The Committee submit the same for approval.

RODOLPHE BOUDREAU,  
Clerk of the Privy Council.

43850

No. 42.

CANADA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 16th December, 1907.)

[Answered by No. 53.]

(No. 483.)

MY LORD,

Government House, Ottawa, 3rd December, 1907.

In continuation of my despatch of even date\* with regard to your enquiry whether His Majesty's Canadian Government could furnish His Majesty's Government with early information in regard to contemplated Canadian legislation affecting the trade interests of the United Kingdom, I have the honour to remind your Lordship that, in accordance with your request contained in Colonial Office, No. 276, of 28th June, 1906†:—

- (1) copies of all Bill are forwarded to your Lordship as soon as they have passed the House in which they have originated; and
- (2) the High Commissioner for Canada in London is also informed by the various Departments of His Majesty's Canadian Government as to changes in legislation in matters affecting their Departments as soon as they are enacted.

Your Lordship suggests that, in order to more completely satisfy the requirements of the Board of Trade, and to enable His Majesty's Government to have an opportunity of offering observations, particularly in the cases where Treaty rights or important British industries may be affected, early and confidential information *re* proposed legislation and its possible effect on the trade interests of the United Kingdom should also be supplied.

The Minister of Trade and Commerce, Sir Richard Cartwright, is anxious to meet the natural desire of His Majesty's Government to be supplied with such information, but he points out that, in the absence of any Department having knowledge in advance of contemplated legislation, the work could not be undertaken by any Canadian Department as at present constituted.

Sir Richard Cartwright further suggests that a British Commercial Agent residing in Canada, or a Commercial Attaché of the Governor-General's Office, appointed by His Majesty's Government, should be charged with the duty of obtaining such information as His Majesty's Government may require. Whether this officer should be a Commercial Attaché of the Governor-General's Office, or an independent commissioner, would be a matter for His Majesty's Government to decide. The appointment would rest with His Majesty's Government, and the salary attached to the office would have to be provided from Imperial funds.

I understand the Board of Trade is now considering Mr. Grigg's report on the subject of the possible appointment of Commercial Agents in Canada, who may be responsible to a Trade Commissioner residing in Ottawa. If the appointment of such an officer is in the contemplation of His Majesty's Government, he would appear to be the proper officer to collect for His Majesty's Government the information they require.

I have, &c.,  
GREY.

\* No. 41.

† 13511: not printed.



41872

No. 43.

## AUSTRALIA.

COLONIAL OFFICE to BOARD OF TRADE.

[See No. 48.]

SIR,

Downing Street, 21st December, 1907.

I AM directed by the Earl of Elgin to transmit to you, to be laid before the Board of Trade, with reference to the letters from this office of the 4th September\* and the 14th of October,† copy of a despatch‡ from the Governor-General of the Commonwealth of Australia on the subject of the supply of information regarding Commonwealth legislation affecting British trade interests.

2. Lord Elgin proposes, with the concurrence of the Board of Trade, to inform His Excellency in reply to his despatch that, when his Lordship's telegram of the 10th of August§ was sent, the long telegram sent through Reuter of the 9th of August giving full details of the tariff, had not appeared in the English newspapers, in which it was not published until the 12th of August, and to express his regret that his despatch of the 4th of September|| should have appeared to imply that the Commonwealth Government had been remiss in sending information on the subject. Lord Elgin also proposes to add an expression of appreciation and thanks for the very full information as to the amendments in the items of the tariff which have been telegraphed through Captain Collins from time to time, and communicated to the Colonial Office and the Board of Trade.

I am, &c.,  
C. P. LUCAS.

43850

No. 44.

## CANADA.

COLONIAL OFFICE to BOARD OF TRADE.

[Answered by No. 48.]

SIR,

Downing Street, 10th January, 1908.

WITH reference to the letter from this Department of the 21st ultimo,¶ I am directed by the Earl of Elgin to transmit to you, to be laid before the Board of Trade, copies of two despatches from the Governor-General of Canada, together with copies of despatches from the Governors of the Orange River Colony, Transvaal, and Newfoundland,\*\* on the subject of the supply of early information to His Majesty's Government as to Colonial legislation affecting the trade interests of the United Kingdom. No reply has at present been received on the subject from the Governor of New Zealand.

2. It will be seen that the Dominion Government suggests that a British Commercial Agent, resident in Canada, or a Commercial Attaché of the Governor-General's Office, appointed by His Majesty's Government should be charged with the duty of supplying the information in question. Similar suggestions were made by the Cape and Commonwealth Governments in the despatches which were communicated to you in the letters from this Department of the 2nd ultimo and 21st ultimo.††

3. In this connexion, I am to enclose copies of correspondence‡‡ which has passed between this Department and the Treasury, on the subject of the proposed appointment of Commercial Agents in the self-governing Dominions and which would have been communicated to you at an earlier date but that his Lordship was expecting a further letter from the Treasury.

4. The Board, in drawing up instructions for the commercial agents, will no doubt carefully consider how far they can with advantage be employed in supplying information by telegraph as to proposed legislation in the Colonies affecting trade, the cost of the telegrams being presumably charged to the Board of Trade vote. In some ways it would seem preferable to procure such information

\* L.F. transmitting copy of No. 34. † 32991: not printed. ‡ No. 38. § 28434: not printed.  
¶ No. 34. ¶ No. 43. \*\* Nos. 41, 42, 35, 36, and 40. †† Nos. 39 and 43. ‡‡ Nos. 32 and 33.

from Ministers, through the Governor, this being obviously the most authentic source of information. On the other hand, if the Colonial Governments see difficulties in the way of supplying at the earliest possible date the necessary details, it may be desirable, within limits, to utilize the services of the agents. In that case, however, it will be necessary that they should be in close communication with the various Government Departments in the Colonies, and direct reference to the Governor-General or Governor will no doubt still be required from time to time. Probably, it would be advisable, in order to avoid a prolonged official correspondence, that the whole question should, in the first instance, be considered by the Commercial Intelligence Committee.

5. In the meantime, his Lordship would be glad to have an early reply to the letter from this Department of the 21st ultimo.\*

I am, &c.,  
C. P. LUCAS.

41872

No. 45.

## AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(No. 35.)

MY LORD,

Downing Street, 31st January, 1908.

I HAVE the honour to acknowledge the receipt of Your Excellency's despatch, No. 264, of the 30th of October,† on the subject of the supply of information regarding Commonwealth legislation affecting British trade interests.

2. In reply I have to request you to inform your Ministers that when my telegram of the 10th of August‡ was despatched, the long telegram giving full details of the tariff which was sent through Reuter on the 9th of August had not appeared in the English newspapers, in which it was not published until the 12th of August, and I regret that my despatch, "Miscellaneous," of the 4th of September,§ should have appeared to imply that the Commonwealth Government had been remiss in sending information on the matter.

3. At the same time I desire to express my appreciation of and thanks for the very full information as to the amendments in the items of the tariff which have been telegraphed through Captain Collins from time to time and communicated by him to this Department and the Board of Trade.

I have, &c.,  
ELGIN.

4669

No. 46.

## NATAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 8th February, 1908.)

[Copy to Board of Trade, 22 February, 1908.]

(No. 9.)

Government House, Pietermaritzburg, Natal,

MY LORD,

13th January, 1908.

WITH reference to your Lordship's "Miscellaneous" despatch of the 4th September, 1907,§ on the subject of important information relative to new Colonial legislation affecting the trade interests of the United Kingdom, and British manufacturers for Colonial markets in particular, being placed at the disposal of the Board of Trade at an earlier date than is now the case, I have the honour to report that in reply to a minute, dated the 27th September, 1907, in which I enquired how far Ministers here were prepared to assist the Board of Trade on the lines suggested, they have informed me in a minute, dated the 7th instant, that they are anxious to meet the wishes of the Imperial Government in respect to this matter,

\* No. 43.

† No. 38.

‡ 28434: not printed.

§ No. 34.



but would like to be more fully informed as to the various classes of legislation, and the particular points on which information by cable is required by the Board of Trade.

I have, &c.,  
M. NATHAN.

4636

No. 47.

## ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 8th February, 1908.)

[Copy to Board of Trade, 22 February, 1908.]

(No. 9.)

Governor's Office, Bloemfontein, Orange River Colony,

20th January, 1908.

MY LORD,

WITH reference to your Lordship's despatch, Miscellaneous, of the 4th September last, and to my reply contained in despatch, Orange River Colony, No. 78, of the 7th October,\* relative to the desirability of the early supply to the Board of Trade of information regarding new Colonial legislation affecting the trade interests of the United Kingdom and British manufacturers for Colonial markets in particular, I have the honour to inform you that the wishes of the Imperial Government in the matter have been noted by my Ministers.

2. While Ministers will, as far as possible, give effect to those wishes, they point out that, in some instances, it might not be desirable or prove of practical utility to give information in advance as to contemplated legislation before the local representatives of commerce or of other classes whose interests would be affected have first been consulted, whilst in other cases, again, it might for reasons of policy be deemed inexpedient to give any information before the matters under consideration had been submitted to Parliament.

I have, &c.,  
HAMILTON GOOLD-ADAMS,  
Governor.

8612

No. 48.

## BOARD OF TRADE to COLONIAL OFFICE.

(Received March 9, 1908.)

[Answered by No. 49.]

Board of Trade (Commercial Department), 7, Whitehall Gardens,

London, S.W., 9th March, 1908.

SIR,

I AM directed by the Board of Trade to acknowledge the receipt of your letters of the 10th January† and 22nd February,‡ with their enclosures, on the subject of the supply to this Department of early information as to Colonial legislation affecting the commercial interests of the United Kingdom.

The Board agree with Lord Elgin that, in the circumstances, the best course would be to entrust to the commercial commissioners or agents proposed to be appointed in Canada, Australia, New Zealand, and South Africa the duty of promptly communicating such information, and that the cost of such telegrams should be charged to the Board of Trade Vote.

In this connection I am to forward to you, for Lord Elgin's information, a draft§ of the Heads of the Instructions which the Board propose, with his concurrence, to issue to the commissioners or agents when appointed, on the subject of the duties they will be expected to perform, and I am to ask you to be good enough to direct his Lordship's attention to the paragraphs numbered 19 to 22 inclusive, which refer to the prompt transmission of important information.

\* Nos. 34 and 35.

† No. 44.

‡ 4669: not printed.

§ Not printed.

I am to add that it is not proposed to appoint a commercial commissioner for Newfoundland, but the appointment of a correspondent in that Colony is in contemplation, whose duty it would be to furnish such telegraphic information when necessary.

The Board will be glad to know at as early a date as convenient whether Lord Elgin approves of the proposed instructions, or has any observations to make thereon.

I have, &c.,  
ARTHUR WILSON FOX.

8612

No. 49.

## COLONIAL OFFICE to BOARD OF TRADE.

[Answered by No. 51.]

Downing Street, 29 April, 1908.

SIR,

I AM directed by the Earl of Crewe to acknowledge the receipt of your letter of the 9th of March,\* submitting, for the Secretary of State's consideration, a draft of Heads of Instructions which the Board of Trade propose to issue to the Commercial Commissioners or Agents whom it is intended to appoint in Canada, Australia, New Zealand, and South Africa.

2. Lord Crewe, in expressing his general approval of the draft,† would suggest, for the consideration of the Board, that it might perhaps be well to adopt the alterations shown in red ink in the accompanying copy.†

3. His Lordship would also suggest that the draft instructions before being issued should be shown to the special representatives of the Dominions on the Commercial Intelligence Committee.

4. When Lord Crewe has learnt from the Board that the instructions have been finally approved, and when the appointments have been made, his Lordship will cause the necessary communications to be made to the Colonies.

I am, &c.,  
FRANCIS J. S. HOPWOOD.

22110

No. 50.

## NEWFOUNDLAND.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 19 June, 1908.)

Board of Trade (Commercial Department),

7, Whitehall Gardens, London, S.W., 18 June, 1908.

SIR,

WITH further reference to your letter, No. 26570, of the 4th March,† and to previous correspondence, respecting the recognition of Mr. le Messurier's services as correspondent of this Department in Newfoundland, I am now directed by the Board of Trade to state that, subject to the approval of the Newfoundland Government, the Board are prepared to appoint Mr. le Messurier as their paid correspondent for that Colony with remuneration at the rate of £100 per annum from the 1st July, 1908. The Board would propose that this arrangement should be terminable at three months' notice on either side, in the same manner as other appointments of a like nature which are being made in Canada.

The Board desire me to request that you will be good enough to move Lord Crewe, in bringing this proposal to the notice of the Newfoundland Government, to inform them that the Board fully appreciate the valuable work which has been performed up to the present time by Mr. le Messurier in the interests of British trade, and to convey to them an expression of the Board's thanks for the assistance which has been given by that officer.

I have, &c.,  
ARTHUR WILSON FOX.

\* No. 48.

† Not printed.



22854

No. 51.

CANADA.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 25 June, 1908.)

[Answered by L.F. transmitting copy of No. 53.]

Board of Trade (Commercial Department),

7, Whitehall Gardens, London, S.W., 23 June, 1908.

SIR, WITH reference to your letter of the 29th April last (8612),\* I am directed by the Board of Trade to inform you that the President of the Board of Trade has appointed Mr. Richard Grigg as His Majesty's Trade Commissioner in Canada. The Board would therefore be glad if Lord Crewe would now cause the necessary communications to be made to the Dominion Government in accordance with paragraph 4 of the letter above referred to.

Mr. Grigg will very shortly enter upon his duties in the Dominion, but he will be instructed to call at the Colonial Office before taking his departure.

I am also to enclose 12 copies of Mr. Grigg's instructions,† which embody all the suggestions made by the Secretary of State for the Colonies, and to say that the instructions to the Trade Commissioner to be appointed in Australia, New Zealand, and South Africa will be adapted from those now enclosed.

I have, &amp;c.,

ARTHUR WILSON FOX.

Annexure to No. 51.

List of Correspondents in Canada of the Commercial Intelligence Branch of His Majesty's Board of Trade:—

Vancouver, British Columbia—

Mr. W. J. Davidson, 65, Hastings Street, Vancouver.

Victoria, British Columbia—

Mr. J. J. Shallcross, of Messrs. Shallcross, Macaulay and Company.

Winnipeg—

Mr. J. Appleton, of the Manitoba Free Press.

St. John, New Brunswick—

Mr. W. E. Anderson, of the St. John Board of Trade.

Quebec—

Mr. G. B. Ramsey, of the General Steamship Agency.

Halifax, Nova Scotia—

Mr. A. T. Weldon, 148, Hollis Street, Halifax.

The appointment of Correspondents at Ottawa, Montreal, and Toronto will be deferred pending the report of His Majesty's Trade Commissioner on the subject. The Board of Trade do not propose to appoint a Correspondent at the town in which His Majesty's Trade Commissioner has his headquarters.

22110

No. 52.

NEWFOUNDLAND.

THE SECRETARY OF STATE to THE GOVERNOR.

[Answered by 28022 in Dominions No. 7.]

(No. 95.)

SIR,

Downing Street, 25 June, 1908.

WITH reference to your despatch, No. 89, of the 8th of June, 1907,‡ I have the honour to transmit to you, to be laid before your Ministers, copy of a letter §

\* No. 49.

† Not printed.

‡ 22562: not printed.

§ No. 50.

from the Board of Trade stating that the Board are prepared, subject to the approval of your Government, to appoint Mr. le Messurier as their paid correspondent for Newfoundland with remuneration at the rate of £100 per annum from the 1st July, 1908.

2. I shall be glad to learn whether Mr. le Messurier is prepared to accept the terms offered by the Board of Trade.

I have, &amp;c.,

CREWE.

22854

No. 53.

CANADA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Sent 4.20 p.m., 30 June, 1908.)

TELEGRAM.

[Copy to Board of Trade, 6 July, 1908. L.F.]

Please inform your Ministers, reference your despatches 482 and 483,\* Board of Trade have appointed Mr. Richard Grigg as Trade Commissioner in Canada. He will leave in a few days' time. Despatch follows by mail.—CREWE.

## VI.

(Resolution X.)

(a) Coastwise Trade in the Colonies.

(b) Trade between United States and its Colonies.

3925

No. 54.

CANADA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 3rd February, 1908.)

(No. 19.)

MY LORD, Government House, Ottawa, Canada, 20th January, 1908.

I HAVE the honour to forward to your Lordship copy of an Order in Council, the effect of which will be to withdraw from the ships and vessels of Italy, of Germany, the Netherlands, of Sweden and Norway, of Austria-Hungary, of Denmark, of Belgium, and of the Argentine Republic after the 1st January, 1909, the privilege of sharing in the coasting trade of the Dominion, which they now enjoy.

I have, &amp;c.,

GREY.

Enclosure in No. 54.

(P.C. 25.)

At the Government House at Ottawa, Monday, 13th day of January, 1908.

PRESENT:

His Excellency the Governor-General in Council.

The Governor-General in Council is pleased to Order that the Orders in Council hereinafter cited, admitting ships or vessels of the following countries to

\* Nos. 41 and 42.



the coasting trade of the Dominion of Canada on the same terms and conditions as are applicable to Canadian vessels, viz.:—

As to Italy, Order in Council, 13th August, 1873.  
 As to Germany, Order in Council, 14th May, 1874.  
 As to the Netherlands, Order in Council, 9th October, 1874.  
 As to Sweden and Norway, Order in Council, 5th November, 1874.  
 As to Austro-Hungary, Order in Council, 1st June, 1876.  
 As to Denmark, Order in Council, 25th January, 1877.  
 As to Belgium, Order in Council, 30th September, 1879, and  
 As to the Argentine Republic, Order in Council, 18th May, 1881,

shall be and the same are hereby repealed, on, from, and after 1st January, 1909; and that the exemption existing under the Orders in Council hereby repealed shall cease to apply to the ships and vessels of Italy, Germany, the Netherlands, Sweden and Norway, Austro-Hungary, Denmark, Belgium, and the Argentine Republic, on, from, and after the 1st January, 1909; and that the ships and vessels of each of the said countries, on, from, and after the said date shall be subject to the terms of Section 955 of Chapter 113 of the Revised Statutes of Canada, 1906, which provides that no goods or passengers shall be carried by water, from one port of Canada to another, except in British ships.

RODOLPHE BOUDREAU,  
 Clerk of the Privy Council.

3937

No. 55.

CANADA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 4 February, 1908.)

(Confidential.)

MY LORD, Government House, Ottawa, Canada, 20 January, 1908.

WITH reference to my despatch, No. 19, of even date,\* regarding the withdrawal of the privileges of the coasting trade from ships and vessels of certain countries, I have the honour to enclose, for your information, copy of a letter which I addressed to Mr. Fielding on the subject, as well as copy of his reply, after the receipt of which I gave my approval to the Order in Council.

I have, &c.,  
 GREY.

Enclosure 1 in No. 55.

LORD GREY to MR. W. S. FIELDING.

DEAR MR. FIELDING, Government House, Ottawa, 8 January, 1908.

THE Order in Council withdrawing after January 1st, 1909, the coasting privileges now enjoyed by Italy, Germany, Norway, Sweden, Austria-Hungary, Denmark, Belgium, and the Argentine Republic, has reached me this morning.

I am not sufficiently conversant with the facts to be able to form any opinion as to the effect of this Order in Council upon the trade relations between those countries and Great Britain. If these countries were, in consequence of your Order, to prohibit all British vessels from admission to their coasting trade, your Order might have very serious and wide-reaching results. Perhaps the information in your possession may enable you to satisfy me on this point.

I remain, &c.,  
 GREY.

Honourable W. S. Fielding.

\* No. 54.

Enclosure 2 in No. 55.

MR. W. S. FIELDING to LORD GREY.

DEAR LORD GREY, Ottawa, 10 January 1908.

I HAVE the honour to acknowledge receipt of your letter of the 8th instant respecting the proposed Order in Council withdrawing the coasting trade privileges from foreign countries.

If the proposed action by Canada should lead to retaliation by foreign nations upon British shipping generally, that certainly would be a very grave matter. But I do not think we need anticipate such action. Foreign nations have gradually learned to understand that the self-governing colonies have the right to legislate for themselves in all matters of this kind. The Imperial Merchant Shipping (Colonial) Act, 1869, provides that the Legislature of a British possession, by an Act or Ordinance, from time to time may regulate the coasting trade of that British possession, subject in every case to the following conditions:—

- (1) The Act or Ordinance shall contain a suspending clause providing that such Act or Ordinance shall not come into operation until Her Majesty's pleasure thereon has been publicly signified.
- (2) The Act or Ordinance shall treat all British ships in the same manner as ships of the Colony.
- (3) Privileges granted to foreign nations by old treaties shall remain undisturbed.

Under authority of this law Canadian legislation has been passed excluding foreign vessels from the Canadian coasting trade. The Canadian Acts on this subject were reserved for the consideration of the Crown in accordance with paragraph 1, and in due course were approved. Provision is, however, made in the Canadian Acts that the Governor-in-Council may, by Order in Council, exempt any country from such exclusion. Under that authority, Orders in Council have been passed from time to time exempting certain countries. What is now proposed is to repeal these Orders in Council and let the general law of exclusion prevail. The proceeding, therefore, is entirely in conformity with Imperial and Canadian laws.

It was at one time thought that Canada's liberty of action in the matter was restricted by some of the old treaties referred to in paragraph 3 of the conditions above stated. Enquiry was therefore made of the Imperial Government and decision obtained that there were no treaties with foreign countries affecting Canada in this matter. I send Your Excellency herewith copies of the correspondence with the Colonial Office on this part of the subject.

The worst that can happen, I think, as a result of the proposed action, is that the foreign nations referred to might declare that, while British ships generally may engage in their coasting trade, ships registered in Canada should not enjoy such privileges. We could not object to such a proceeding. My information is that it would not affect us adversely, as, practically, the coasting trade of the countries referred to is of no advantage to us.

While it is proposed to pass the Order in Council at once, Your Excellency will observe that it will not take effect until a year hence. Consequently, if any question should arise as to the wisdom of the exclusion, there would be ample time for reconsidering and, if necessary, repeal of, the Order in Council.

Yours, &c.,  
 W. S. FIELDING.

His Excellency  
 The Governor-General,  
 Government House,  
 Ottawa.

3937

No. 56.

CANADA.

COLONIAL OFFICE to FOREIGN OFFICE and BOARD OF TRADE.

SIR,

Downing Street, 21 February, 1908.

WITH reference to the discussion on the question of Coasting Trade at the



Colonial Conference of 1907, I am directed by the Earl of Elgin to transmit to you, for the information of Secretary Sir E. Grey, copies of despatches\* from the Board of Trade, Governor-General of Canada on the subject of the reservation of the coasting trade of the Dominion to British vessels.

A similar communication has been addressed to the Board of Trade.  
Foreign Office.

I am, &c.,  
C. P. LUCAS.

3925

No. 57.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL and GOVERNORS.

(Commonwealth of Australia. No. 75.)

(New Zealand. No. 35.)

(Newfoundland. No. 29.)

(Natal. No. 29.)

(Cape of Good Hope. No. 39.)

MY LORD,

SIR,

Downing Street, 5 March, 1908.

WITH reference to the discussions at the Colonial Conference upon Navigation Laws and Coastwise Trade and to the tenth Resolution of the Conference, I have the honour to transmit to Your Excellency for the information of your Ministers, copy of a despatch† from the Governor-General of Canada intimating the decision of his Ministers to confine the coasting trade of the Dominion to British vessels from the 1st of January, 1909.

I have, &c.,  
ELGIN.

3925

No. 58.

THE SECRETARY OF STATE to THE GOVERNORS.

(Transvaal. No. 60.)

(Orange River Colony. No. 29.)

MY LORD,

SIR,

Downing Street, 6 March, 1908.

[In identical terms with No. 57.]

20121

No. 59.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNOR.

(Canada. No. 318.)

(Australia. No. 184.)

(New Zealand. No. 99.)

MY LORD,

Downing Street, 5 June, 1908.

WITH reference to the discussion of coastwise trade in the Pacific, printed at pages 460-462 of the Minutes of the Proceedings† of the Colonial Conference of 1907, I have the honour to transmit to Your Excellency for the information of your Ministers, copy of a despatch from His Majesty's Ambassador at Washington

\* Nos. 54 and 55.

† No. 54.

‡ [Cd. 3523] May, 1907.

forwarding copy of a Bill to permit the engagement of foreign vessels in the trade between the United States and Hawaii.

I have, &c.,  
CREWE.

Enclosure in No. 59.

(No. 129. Commercial.)

SIR,

Washington, 15 May, 1908.

I HAVE the honour to transmit to you herewith copy of a Bill which has been favourably reported by the Committee on Commerce of the House, suspending the restriction of navigation between the ports of Hawaii and the United States to the American flag. An effort will be made to pass this Bill through Congress if possible this session, or, failing that, in the autumn.

I am, &c.,  
JAMES BRYCE.

The Right Honourable

Sir Edward Grey, Bart.,

&amp;c., &amp;c., &amp;c.

60th Congress, 1st Session.

(S. 6840.)

IN THE SENATE OF THE UNITED STATES.

25 April, 1908.

Mr. PILES introduced the following Bill; which was read twice and referred to the Committee on Commerce.

A BILL to amend the laws concerning transportation between ports of the Territory of Hawaii and other ports of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That for a period of six years from the passage of this Act passengers may be transported without penalty in foreign vessels between ports of the Territory of Hawaii and other ports of the United States: *Provided, however,* that the provisions of this Act shall cease to be operative whenever a new line of at least three steamships of the United States shall have been established from the United States to Hawaii.

20879

No. 60.

THE SECRETARY OF STATE to THE GOVERNORS.

(Cape. No. 113.)

(Natal. No. 100.)

(Transvaal. No. 155.)

(Orange River Colony. No. 72.)

(Newfoundland. No. 88.)

MY LORD,

SIR,

Downing Street, 19 June, 1908.

WITH reference to the discussion of coastwise trade in the Pacific printed at pages 460-462 of the Minutes of the Proceedings\* of the Colonial Conference of 1907, I have the honour to transmit to you, for the information of your Ministers, copy of a despatch from His Majesty's Ambassador at Washington on the subject

\* [Cd. 3523.]



of the opening of the carrying trade between the United States and the Philippines to foreign vessels.

2. I have to add that a Bill has been introduced into the United States Legislature to permit the engagement of foreign vessels in the trade between the United States and Hawaii, but this Bill has not at present been passed.

I have, &c.,  
CREWE.

Enclosure in No. 60.

(No. 112. Commercial.)

SIR, British Embassy, Washington, 30 April, 1908.  
CONGRESS have passed the Bill sent home in No. 56, Commercial, of the 6th ultimo, of which Section 3 provided that the provisions of law restricting to vessels of the United States the transportation of passengers and merchandise directly or indirectly from one port of the United States to another port of the United States shall not be applicable to foreign vessels engaging in trade between the Philippine Islands and the United States. The Act of 1906, which would have applied the coastwise laws definitely to shipping between the United States and the Philippines after April 11th, is repealed. The Bill just passed has other provisions, leaving to the Government of the Philippines control over the regulation of shipping among the islands, and, otherwise, leaving their trade unhampered.

This measure has been passed with little public attention; the only comments made thereon are to the effect that American shipping had failed to profit by the repeated respite allowed it in which to show some preparation to provide for the trade to be reserved to it, and that to so reserve the trade would have had the effect of excluding American goods from the islands by high freight rates.

I have, &c.,

(For the Ambassador)

ESMÉ HOWARD.

The Right Honourable  
Sir Edward Grey, Bart.,  
&c., &c., &c.

Annexure.

IN THE SENATE OF THE UNITED STATES.

A BILL

To repeal an Act approved April thirtieth, nineteen hundred and six, entitled "An Act to regulate shipping in trade between ports of the United States and ports or places in the Philippine Archipelago, between ports or places in the Philippine Archipelago, and for other purposes," and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That until Congress shall have authorized the registry as vessels of the United States of vessels owned in the Philippine Islands, the government of the Philippine Islands is hereby authorized to adopt, from time to time, and enforce regulations governing the transportation of merchandise and passengers between ports or places in the Philippine Archipelago.

Section 2. That on and after the passage of this Act the same tonnage taxes shall be levied, collected, and paid upon all foreign vessels coming into the United States from the Philippine Islands which are required by law to be levied, collected, and paid upon vessels coming into the United States from foreign countries.

Section 3. That the provisions of law restricting to vessels of the United States the transportation of passengers and merchandise directly or indirectly from one port of the United States to another port of the United States shall not be applicable to foreign vessels engaging in trade between the Philippine Islands and the United States.

Section 4. That the Philippine Commission shall be authorized and empowered to issue licenses to engage in lighterage or other exclusively harbour business to vessels or other craft actually engaged in such business at the date of the passage of this Act and to vessels or other craft built in the Philippine Islands or in the United States and owned by citizens of the United States or by inhabitants of the Philippine Islands.

Section 5. That such of the navigation laws of the United States as are in force in the Philippine Islands in regard to vessels arriving in the Philippine Islands from the mainland territory and other insular possessions of the United States shall continue to be administered by the proper officials of the government of the Philippine Islands.

Section 6. That the Act entitled "An Act to regulate shipping in trade between ports of the United States and ports or places in the Philippine Islands, between ports or places in the Philippine Islands, and for other purposes," approved April thirtieth, nineteen hundred and six, and all laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

20879

No. 61.

THE SECRETARY OF STATE TO THE GOVERNORS-GENERAL AND GOVERNOR.

(Canada. No. 353.)

(Australia. No. 202.)

(New Zealand. No. 112.)

MY LORD,

Downing Street, 19 June, 1908.

WITH reference to my despatch, No.  $\frac{318}{184}$  of the 5th instant,\* I have the

honour to transmit to Your Excellency, for the information of your Ministers, you, copy of a despatch† from His Majesty's Ambassador at Washington, reporting that a Bill has been passed to permit the engagement of foreign vessels in the trade between the United States and the Philippine Islands, together with copy of the Bill.

I have to add that the similar Bill, enclosed in my despatch above mentioned, respecting navigation between Hawaii and the United States has not yet been passed by the United States Congress.

I have, &c.,  
CREWE.

VII.

(Resolution XI.)

(1) Model Draft Treaty of Commerce and Navigation.

15677

No. 62.

THE SECRETARY OF STATE TO THE GOVERNORS-GENERAL and GOVERNORS.‡

[Answered by Nos. 63, 64, 65, 66, 67, 68, and 71.]

(Confidential.)

MY LORD,

Downing Street, 1st August, 1907.

SIR, I HAVE the honour to forward, for the confidential information of your Ministers, with reference to my confidential despatch of  $\frac{24th\ May}{14th\ June}$  last, copies of "Confidential papers printed in connection with the Colonial Conference, 1907."||

2. You will see that these papers include (at p. 13) a memorandum, which was laid before the Conference, but not fully discussed during its meetings, "with

\* No. 59.

† Enclosure in No. 60.

‡ Australia, Canada, New Zealand, Cape of Good Hope, Natal, Newfoundland, and Transvaal.

§ 18463: not printed.

|| Miscellaneous No. 208.



regard to the best means of consulting the Colonies in commercial negotiations," to which is appended a Draft Treaty of Commerce and Navigation, proposed by His Majesty's Government for adoption in future negotiations with foreign countries.

3. I shall be glad to learn, at your Ministers' early convenience, whether they have any suggestions to offer upon this Memorandum and Draft Treaty.

I have, &c.,  
ELGIN.

40264

No. 63.

NATAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 16th November, 1907.)

(Confidential.)

Government House, Pietermaritzburg, Natal,

26th October, 1907.

MY LORD,

WITH reference to your Lordship's telegram of the 17th instant,\* received through the Governor of the Cape Colony, and to paragraph 3 of your Lordship's confidential despatch of the 1st August, 1907,† enquiring whether Ministers in Natal had any suggestions to offer upon a draft Treaty of Commerce and Navigation, proposed by His Majesty's Government for adoption in future negotiations with foreign countries, I have the honour to state that they are of opinion that it would be of advantage to the Colonies if the subjects of commerce and navigation were dealt with in separate treaties.

2. Ministers state that, generally speaking, they are in favour of the terms of the draft treaty, but they beg to call attention to the following points:—

(1.) Article 7 provides that merchandise passing in-transit shall be free from transit duties.

If the application of this clause were limited to differential transit duties as between goods coming from the country with which the treaty is made and other foreign countries no difficulty would probably be found in accepting this clause, but in the case of goods passing through this Colony in transit to other countries in South Africa, the words used in the clause might, in certain eventualities, prejudice the rights of the Natal Government.

Under the Natal Customs Act, of 1899, power is given to the Governor-in-Council to prescribe the rates to be charged upon goods and things imported for transit to, and consumption in, any adjoining State or territory. The operation of this enactment is in abeyance in respect of any countries parties to the South African Customs Union, but should it happen that Natal were to cease to belong to the Union, it might become necessary to revert to the former practice, and charge transit duties on goods passing through the Colony.

(2.) With regard to Articles 10, 12, and 13, it is the practice in this Colony to grant certain exemptions in respect of harbour charges to vessels belonging to His Majesty's Government and other Colonial Governments. This should be borne in mind, but it seems probable that no objection would be offered to privileges of this nature provided that national vessels belonging to the country with which the treaty is made were treated on equal terms with privately-owned vessels of the Empire.

I have, &c.,  
M. NATHAN.

41174

No. 64.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 23rd November, 1907.)

(Confidential.)

MY LORD,

Government House, Cape Town, 1st November, 1907.

I HAVE the honour to transmit to your Lordship, with reference to your confi-

\* 36070: not printed.

† No. 62.

dential despatch of 1st August,\* and to my telegram, No. 1, of 31st October,† a copy of a minute from Ministers on the subject of a draft Treaty of Commerce and Navigation proposed by His Majesty's Government for adoption in future negotiations with foreign countries.

I have, &c.,  
WALTER HELY-HUTCHINSON.

Enclosure in No. 64.

MINISTERS to GOVERNOR.

(Minute No. 1/612.)

Prime Minister's Office, Cape Town, October 31, 1907.

Ministers have the honour to acknowledge the receipt of His Excellency the Governor's minute, confidential, No. 2, dated 20th August, 1907, forwarding, for their consideration, a suggested model form of Treaty of Commerce and Navigation proposed by His Majesty's Government for adoption in future negotiations with foreign countries, together with an explanatory memorandum on the objects sought to be attained.

Ministers note that this question was to some extent discussed at the recent Colonial Conference, and they are advised that the draft articles submitted appear to be as satisfactory as can well be devised for dealing with a complicated subject on general lines. The provisions of Articles 20 and 21 would meet the requirements of this Colony.

In connection with Section (c) of the memorandum, Ministers would record their opinion that until at least a measure of federation is attained, it would probably not be feasible to bring the South African Colonies into closer relations with foreign countries by means of tariff schedules. Ministers would, however, add, in view of the fact that the bulk of the overseas trade of these Colonies is almost entirely conducted with, or through, Great Britain, that the point does not appear to them to be of immediate practical importance.

L. S. JAMESON.

42010

No. 65.

NEW ZEALAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 30th November, 1907.)

[Copy to Board of Trade, December 12, 1907. Confidential. L.F.]

(Confidential.)

Government House, Wellington, New Zealand,  
23rd October, 1907.

MY LORD,

I HAVE the honour to acknowledge your Lordship's confidential despatch of the 1st August last,\* enclosing copies of "Confidential papers in connection with the Colonial Conference, 1907."

2. My Ministers inform me that the New Zealand Government have no suggestions to offer with regard to the Memorandum and Draft Treaty of Commerce and Navigation proposed by His Majesty's Government for adoption in future negotiations with foreign countries.

I have, &c.,  
PLUNKET,  
Governor.

\* No. 62.

† 38441: not printed.



No. 66.

## NEWFOUNDLAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 3rd January, 1908.)

(Confidential.)

MY LORD,

Government House, St. John's, 24th December, 1907.

WITH reference to your confidential despatch of 1st August last,\* I now have the honour to enclose copy of a letter I have received from Ministers, in which their views are fully set forth on the question under notice. It will be noticed that the proposals made are considered by my Ministers to be generally satisfactory, while they offer certain suggestions on some minor points.

I have, &amp;c.,

WM. MACGREGOR.

Enclosure in No. 66.

Colonial Secretary's Office, St. John's, Newfoundland,  
December 10, 1907.

SIR,

WITH reference to the confidential despatch, under date 1st August last, from the Right Honourable the Secretary of State for the Colonies, in relation to the memorandum laid before the Colonial Conference with regard to the best means of consulting the Colonies in commercial negotiations, I have the honour to state that Ministers regard the method of keeping in touch with Colonial interests outlined in the said memorandum as satisfactory.

The difficulties of consulting the Colonies officially throughout the various stages of negotiations appears to be obviated as far as is consistent with the speedy and successful termination of the negotiations by (1) obtaining in advance the views of the Colonies which are materially interested in trade with the country with which the negotiation is projected; (2) having, where practicable, representatives of the self-governing Colonies on the Advisory Committee on Commercial Intelligence; (3) leaving it optional with each Colony, after an examination of the text of each treaty, to determine on its own responsibility whether it will become a party thereto or not; (4) leaving it optional with each Colony to withdraw from the treaty on its own responsibility on giving due notice to that effect.

It might be an advantage if, when negotiations are projected with any particular country, with a view to arranging a treaty of commerce or navigation, each Colony was notified of the fact, and invited to express any views relating to the trade of that Colony with the country in question, which, by reason of local knowledge of trade conditions may be in a position to point out the direction in which such Colony is interested.

Ministers are also inclined to the opinion that it would be to advantage if the Model Treaty were subdivided under the Heads (a) Commerce, (b) Navigation, with the option of a Colony adhering to the one and not to the other.

In reference to the draft of "model form" of articles, Ministers note that Article 2 provides that "the contracting parties agree that in all matters relating to commerce, navigation, and industry, any privilege, favour, or immunity which either contracting party has actually granted or may hereafter grant to the subjects or citizens of any other foreign State shall be extended immediately and unconditionally to the subjects of the other, it being the intention that the commerce, navigation, and industry of each country shall be placed in all respects on the footing of the most favoured nation." Under this it is evidently intended that where a foreign country enjoys exceptional privileges relating to the matters referred to therein within the territory and territorial water of any Colony by treaty that the other party to any treaty of commerce or navigation would be entitled to enjoy like exceptional privileges. There are some cases of foreign treaties which originated under peculiar circumstances arising out of the particular relations existing between a Colony and a given foreign country, such as the right of fishing ceded to France

\* No. 62.

and the United States of America in the territorial waters of Newfoundland. Privileges of this kind require exceptional treatment, and Ministers presume that it is not the intention to admit others to like privileges under the most favoured nation clause. For instance, if a treaty is concluded with Spain on the lines indicated in the "model form," it is not the intention to extend to the subjects of Spain the same privileges in regard to the fishing industry of Newfoundland as those enjoyed by the inhabitants of the United States or the citizens of France?

I have, &amp;c.,

R. BOND,

Colonial Secretary.

His Excellency

Sir Wm. MacGregor, G.C.M.G., C.B., &amp;c.

424

No. 67.

## TRANSVAAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 4th January, 1908.)

(Confidential (3).)

MY LORD,

Governor's Office, Johannesburg, 16th December, 1907.

WITH reference to my telegram of 30th October, No. "B,"\* I have the honour to enclose, for your information, a copy of a Minute from Ministers on the subject of the draft Treaty of Commerce and Navigation proposed by His Majesty's Government for adoption in future negotiations with foreign countries.

I have, &amp;c.,

SELBORNE,

Governor.

Enclosure in No. 67.

(Confidential.)

(Minute. No. 627.)

Prime Minister's Office, Pretoria, November 20, 1907.

WITH reference to their Minute No. 568, of the 28th ultimo, Ministers have the honour to inform His Excellency the Governor that they have now given careful consideration to the question of the best means by which the Colonies may be consulted in connection with commercial negotiations with foreign Powers, and to the draft Treaty of Commerce and Navigation proposed by His Majesty's Government for adoption in future negotiations with foreign countries.

While Ministers are entirely in sympathy with the sentiments expressed in the resolution on this subject passed at the Colonial Conference of 1902, and are, moreover, most anxious to assist in bringing into operation some form of treaty which might be made of general application to all British Colonies, they fear that so far as this Colony is concerned there are serious difficulties in the way of accepting, as applicable to the Transvaal, the provisions of the draft Treaty of Commerce and Navigation put forward by His Majesty's Government as a basis for discussion.

In particular Ministers notice—

- (a) That Articles 1, 2, and 3 of the draft Treaty conflict with existing legislation in the Transvaal affecting coloured persons and Asiatics, and are also calculated to conflict with future legislation of this nature.
- (b) That Article 5 conflicts with the special agreement under which the produce and manufactures of the Province of Moçambique are admitted into the Transvaal free of duty.
- (c) That Articles 8 and 9 would conflict with local legislation in relation to Customs and Excise.
- (d) That Articles 10 to 17 are inapplicable to this Colony; and
- (e) That Article 19 would appear to necessitate an amendment of the Merchandise Marks statutes before the Transvaal could give its adherence to any treaty containing a provision of this nature.

\* 38337: not printed.



These instances will serve to illustrate the difficulties which must always present themselves when it is sought to introduce a standard form of treaty to which the Transvaal could give its adhesion.

Ministers observe that Article 20 of the draft Treaty provides that the terms thereof will not be applicable to any British Colony unless notice of adhesion has been given on behalf of such Colony within one year from the date of exchange of ratification bringing it into force; and further, that Article 21 provides that when a treaty has in such manner become applicable to any Colony, it may be terminated as regards such Colony on twelve months' notice being given. These provisions, which in Ministers' opinion could not be improved upon, seem to point the way out of the difficulty inasmuch as they give an opportunity for His Majesty's Government, after a treaty of commerce has been concluded with a foreign Power, to ascertain from the Government of the Transvaal whether the terms of such treaty can suitably be applied to this Colony.

LOUIS BOTHA.

561

No. 68.

# AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 6th January, 1908.)

(No. 297.)

Commonwealth of Australia, Governor-General's Office,  
Melbourne, 27th November, 1907.

MY LORD,

REFERRING to your Lordship's confidential despatch, dated 1st August last,\* covering copies of "Confidential Papers printed in connection with the Colonial Conference, 1907," I have the honour to forward, herewith, for your Lordship's information, a copy of a despatch relating thereto which has been addressed to me by my Prime Minister.

I have, &c.,  
NORTHCOTE,  
Governor-General.

Enclosure in No. 68.

(P.M. 07/4767.)

MY LORD,

Melbourne, November 27, 1907.

WITH reference to the confidential despatch of the Secretary of State for the Colonies, dated 1st August last, covering copies of "Confidential Papers printed in connection with the Colonial Conference, 1907," I have the honour to invite Your Excellency to be good enough to inform Lord Elgin that your Ministers have considered the memorandum laid before the Conference "with regard to the best means of consulting the Colonies in commercial negotiations" and the Draft Treaty of Commerce and Navigation proposed by His Majesty's British Government for adoption in future negotiations with foreign countries.

2. As framed, the model clauses appear to be open to serious objection in the following respects:—

Articles 1 and 10 would not permit Customs preferences;

Article 13 would appear to preclude the grant of Exempt Pilotage Certificates to Australian shipmasters;

Under Article 14 difficulties might be raised in respect to that exemption, and in regard to the practice of charging duty on ship's stores.

3. The suggestion that it might be possible to divide the Treaty into two parts, one to deal with commerce and the other with navigation, has also been considered, but no opinion is expressed in regard thereto until it is seen in what manner the proposed division is effected. The two subjects appear to be so closely connected that it is probable that objections arising from our legislation to one part would be equally applicable to the other.

4. It has been suggested that it might be possible to so alter the wording of

\* No. 62.

Article 20 as to give the Dominions the option of adhering to certain clauses of a Treaty only instead of putting them to the choice of accepting or rejecting the Treaty as a whole. While such a course would be most convenient, it is obvious that it could not be asked as a right, but the suggestion is submitted as perhaps indicating an alternative to the proposal for sub-division.

I have, &c.,  
ALFRED DEAKIN.

Governor-General

His Excellency

The Right Honourable

Lord Northcote, G.C.M.G., G.C.I.E.,

&c., &c., &c.

561

No. 69.

THE SECRETARY OF STATE to THE GOVERNORS AND GOVERNOR-GENERAL.

- |                    |                   |
|--------------------|-------------------|
| (1.) New Zealand.  | } (Confidential.) |
| (2.) Newfoundland. |                   |
| (3.) Cape.         |                   |
| (4.) Transvaal.    |                   |
| (5.) Natal.        |                   |
| (6.) Australia.    |                   |

MY LORD,  
SIR,

Downing Street, 3rd February, 1908.

I HAVE the honour to transmit to you, Your Excellency, to be laid before your Ministers, with reference to your despatch, confidential, of the [(1) 23rd October] [(2) 24th December] [(3) 1st November] [(4) 16th December] [(5) 26th October] [(6) 27th November],\* copies of the replies received from the other Dominions on the subject of the Draft Treaty of Commerce and Navigation proposed by His Majesty's Government for adoption in future negotiations with foreign Powers.

2. I propose to address to you a further despatch on the subject when the reply from the Government of the Dominion of Canada has been received.

I have, &c.,  
ELGIN.

561

No. 70.

# ORANGE RIVER COLONY.

THE SECRETARY OF STATE to THE GOVERNOR.

[Answered by No. 77.]

(Confidential.)

SIR,

Downing Street, 3rd February, 1908.

I HAVE the honour to transmit to you, to be laid before your Ministers, copies of a despatch which I addressed on the 1st of August, 1907, to the Governors of the Dominions on the subject of the conduct of commercial negotiations with foreign Powers, and of the replies\* which have been received from the Dominion Governments. No answer has yet been returned by the Government of Canada.

2. I shall be glad to be favoured in due course with any observations which your Ministers may wish to offer on the Draft Treaty of Commerce and Navigation.

I have, &c.,  
ELGIN.

\* Nos. 65, 66, 64, 67, 63, and 68.

† No. 62.



No. 71.

CANADA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 4th February, 1908.)

[Answered by No. 74.]

(Confidential.)

Government House,

MY LORD,

Ottawa, Canada, 20th January, 1908.

WITH reference to your Lordship's confidential despatch of the 1st August, 1907,\* asking for the views of my responsible advisers upon an enclosed draft treaty proposed by His Majesty's Government for adoption in future negotiations with foreign countries, I have the honour to forward herewith copy of an approved Minute of the Privy Council, setting forth objections to certain articles of the proposed model treaty.

I have, &c.,  
GREY.

Enclosure in No. 71.

(P. C. 1609 M.)

CERTIFIED copy of a Report of the Committee of the Privy Council, approved by His Excellency the Governor-General on the 18th January, 1908.

The Committee of the Privy Council have had under consideration a confidential despatch from the Right Honourable the Secretary of State for the Colonies, dated 1st August, 1907, with regard to the best means of consulting the Colonies in commercial negotiations, to which was appended a draft Treaty of Commerce and Navigation proposed by His Majesty's Government for adoption in future negotiations with foreign countries.

The Minister of Trade and Commerce, to whom the despatch was referred, submits that many of the Articles of the Draft Treaty could, with advantage to Canada, be incorporated in any Treaty of Commerce and Navigation to which Canada might at any future time become a party. There are, however, certain Articles which would require further consideration should any future treaties be contemplated. These Articles are Nos. 1, 5, 9, 10, and 17.

*Article 1.*—"There shall be between the territories of the two contracting parties reciprocal freedom of commerce and navigation.

The subjects of each of the two contracting parties shall have liberty freely to come with their ships and cargoes, to all places and ports in the territories of the other, to which native subjects are, or may be permitted to come, and shall enjoy the same rights, privileges, liberties, favours, immunities, and exemptions in matters of commerce and navigation as are or may be enjoyed by native subjects.

The subjects of each of the contracting parties shall not be subject in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, or to imposts or obligations of any kind whatever, other or greater than those which are or may be imposed upon native subjects, or subjects or citizens of the most-favoured nation."

This article appears to be too broad to permit of its being incorporated in any Treaty which might be entered into with any Asiatic country.

*Article 5.*—"The articles, the produce or manufacture of one of the contracting parties, imported into the territories of the other, from whatever place arriving, shall not be subjected to other or higher duties or charges than those paid on the like articles, the produce or manufacture of any other foreign country. Nor shall any prohibition or

\* No. 62.

restriction be maintained or imposed on the importation of any article the produce or manufacture of either of the contracting parties into the territories of the other, from whatever place arriving, which shall not equally extend to the importation of the like articles being the produce or manufacture of any other foreign country.

The only exceptions to this general rule shall be in the case of the sanitary or other prohibitions occasioned by the necessity of securing the safety of persons, or of cattle, or of plants useful to agriculture, and of the measures applicable in either of the two countries to articles enjoying a direct or indirect bounty in the other.

The merchandize, the produce or manufacture of the United Kingdom, enumerated in the tariff annexed to this Treaty shall not, on importation into be subjected to higher duties than those mentioned in the said tariff."

The only objections which might be raised in future negotiations might be the stipulation set forth in the third paragraph, though there may be occasions when no objection could be raised.

*Article 9.*—"No internal duties levied for the benefit of the State, local authorities, or corporations which affect, or may affect, the production, manufacture, or consumption of any article in the territories of either of the contracting parties, shall for any reason be a higher or more burdensome charge on the articles the produce or manufacture of the other than on similar articles of native origin.

The produce or manufacture of either of the contracting parties imported into the territories of the other, and intended for warehousing or transit, shall not be subjected to any internal duty."

The question of internal duties may not be one under the control of the Dominion Government; at present some of the Canadian Provinces enjoy the privilege of imposing certain Provincial taxation with which the Dominion Government does not interfere.

*Article 10.*—"Each of the contracting parties shall permit the importation or exportation on the vessels of the other of all merchandize which may be legally imported or exported; and such vessels and their cargoes shall enjoy the same privileges, and shall not be subjected to any other or higher duties or charges than national vessels and their cargoes."

It might be desirable to give a preference in respect of goods carried by British vessels over goods carried in any foreign vessel. This objection also applies to Article 1.

*Article 17.*—"The Consuls and Consular Agents of each of the contracting parties residing in the territories of the other, shall receive from the local authorities such assistance as can by law be given to them for the recovery of deserters from the vessels of their respective countries.

Provided that this stipulation shall not apply to subjects or citizens of the state in whose territory the desertion takes place."

To a certain extent this is in the same position as Article 9. Aid by local authorities might not be under the control of the Dominion Government; but, as regards Articles 9 and 7, no objection could be taken to these clauses were they modified by a clause in effect, "Only so far as the matter is within the control of the parties to the Convention."

The Committee, concurring in the foregoing, advise that a copy thereof be transmitted to the Right Honourable the Secretary of State for the Colonies.

All which is respectfully submitted for approval.

F. K. BENNETTS,  
Assistant Clerk of the Privy Council.



3938

No. 72.

COLONIAL OFFICE to BOARD OF TRADE.

[Answered by No. 75.]

SIR,

Downing Street, 8th February, 1908.

WITH reference to your letter of the 23rd of December last\* and to the letter from this Department of the 23rd ultimo† respecting the Draft Treaty of Commerce and Navigation proposed by His Majesty's Government for adoption in future negotiations with foreign Powers, I am directed by the Earl of Elgin to transmit to you, to be laid before the Board of Trade, the enclosed copy of a despatch‡ which has been received from the Governor-General of the Dominion of Canada, enclosing a statement of the views of his responsible advisers on the subject.

I am to state that as all the Colonies to whom the Secretary of State's despatch of 1st August last§ was addressed have now replied thereto, Lord Elgin would be glad to receive the observations of the Board on those replies at as early a date as possible.

I am, &c.,  
C. P. LUCAS.

3938

No. 73.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL AND GOVERNORS.

(Australia.)

(Transvaal.)

(New Zealand.)

(Orange River Colony.)

(Newfoundland.)

(Natal.)

(Cape of Good Hope.)

(Confidential.)

MY LORD,

SIR,

Downing Street, 19th February, 1908.

WITH reference to my despatch, confidential, of the 3rd of February,|| I have the honour to transmit to Your Excellency, for the information of your Ministers, copy of a despatch‡ from the Governor-General of Canada on the subject of the draft Treaty of Commerce and Navigation.

2. I shall address a further communication to you on this subject in due course.

I have, &c.,  
ELGIN.

3938

No. 74.

CANADA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Confidential (2).)

MY LORD,

Downing Street, 19 February, 1908.

I HAVE the honour to acknowledge the receipt of your Excellency's despatch, confidential, of the 20th of January,† and to transmit to you, for the information of your Ministers, copies of the replies‡ received from the other Dominions on the subject of the draft Treaty of Commerce and Navigation proposed by His Majesty's Government for adoption in future negotiations with foreign Powers.

\* 44722 : not printed.  
| No. 69.

† 561 : not printed.

‡ No. 71.  
¶ Nos. 63 to 68.

§ No. 62.

2. I shall address a further communication on this subject to you in due course.

I have, &c.,  
ELGIN.

11393

No. 75.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 31 March, 1908.)

Board of Trade (Commercial Department)

7, Whitehall Gardens, London, S.W.,

27 March, 1908.

SIR,

I AM directed by the Board of Trade to advert to your letter of the 8th February (No. 3938),\* and to previous correspondence, on the subject of the replies received from the Governments of the various self-Governing Colonies to Lord Elgin's circular despatch of the 1st August last,† asking for their observations on the "Model Draft" Treaty of Commerce and Navigation proposed to be adopted by His Majesty's Government for the purpose of future negotiations with foreign Powers.

The Board have carefully considered the replies referred to, and now desire me to ask you to be good enough to lay the following observations before the Earl of Elgin:—

(1) It appears that the Governments of New Zealand, the Cape of Good Hope, and Newfoundland are satisfied generally with the provisions of the Draft Treaty as submitted to them, and do not suggest anything in the nature of modification. The only Governments which are disposed to favour the idea of separate treaties for commerce and navigation are those of Newfoundland and Natal—the Australian Government reserving their opinion until "it is seen in what manner the proposed division is effected," while admitting that "the two subjects appear to be so closely connected that it is probable that objections from Australian legislation to one part would be equally applicable to the other." The Australian Government, however, put forward, as an alternative to such a division, a suggestion for the alteration of Article XX. of the "Model Draft" with a view to giving the Dominions the option of adhering to certain clauses only of a treaty instead of putting them to the choice of accepting or rejecting the treaty as a whole.

On the point, therefore, as to separate forms of treaty for commerce and navigation, the Board, having regard to the lack of any expression of strong views by the Dominions with reference thereto, are inclined to think that there is no sufficient reason for making any change at present. This expression of opinion will probably be deemed a sufficient reply to your letters of the 14th November last and the 6th March‡ affecting this point in connexion with the proposed treaty with Guatemala.

I am also to observe, with regard to the suggestion of the Australian Government, that the Board are of opinion that considerable difficulties would be likely to be encountered in endeavouring to induce foreign Powers to assent to a proposal that a particular Colony or Dominion should be permitted to adhere only to certain provisions of a treaty.

(2) The objections taken by the Canadian and Transvaal Governments to the earlier articles of the draft appear to apply only where the treaty contemplated happens to be one with an Asiatic Power. In cases of this sort, it is recognised that it may prove to be necessary to arrive at special understandings with a view to safe-guarding the interests of individual Colonies in respect of immigration, &c., before such Colonies can give their adherence to a particular treaty.

(3) With regard to the objection of the Transvaal Government to Article V., the Board agree that, in the event of that Colony contemplating adherence to any given treaty, it would seem to be requisite to arrive at some special understanding with the country concerned in order to reserve the treatment accorded to goods from Mozambique.

\* No. 72.

† No. 62.

‡ 39090 and 42624 : not printed.



(4) With reference to the difficulties raised by the Government of Natal in connexion with Article VII., I am to point out that it is of great importance to the trade of the United Kingdom that exemption from transit duties should be secured in all treaties which His Majesty's Government may negotiate. The Board could not see their way to recommend acceptance of any amended form of the model draft treaty which did not specifically provide for such exemption. They are, however, inclined to think that there would be no objection to the incorporation of a provision in the draft permitting both the parties to a treaty to impose lower dues on shipping, or to accord exemption from such dues, in the case of vessels belonging to National or Colonial Governments.

(5) The objections of the Transvaal Government to Article VIII. would probably not prevent that Colony's adherence to any treaty which might be concluded between Great Britain and another Power subject to a special reservation.

(6) The objections taken by the Governments of the Transvaal and the Dominion of Canada to Article IX. are of a more serious nature. In this connexion, however, the Board can only express their regret that they do not find it possible to agree to the abandonment of the stipulation for national treatment as regards internal duties, and that they do not think that the adherence of a Colony subject to a special reservation on this point would be likely to receive the assent of a foreign Government.

(7) The views of the Board on the desirability of retaining the provisions of the proposed Article X. in any treaty to be negotiated in the future have been fully set out in previous correspondence, and they do not, therefore, propose to offer any further observations on the objection taken to that Article by the Governments of Canada and of Australia, viz., that it would preclude the grant of preference to goods carried in British vessels.

(8) So far as the Board are able to judge, the objections taken by the Commonwealth Government to Articles XIII. and XIV. are not well founded. They do not think that these articles would be an obstacle to the grant of exempt pilotage certificates to national shipmasters, and they cannot think that the Commonwealth Government would desire (contrary to the practice of all civilized nations) to levy duties on the stores of a ship which has been forced to put in through stress of weather.

(9) The Board would suggest, subject to Lord Elgin's approval, that the Newfoundland Government might be informed that the provisions of the "Model Draft" would not preclude the right of according special privileges in regard to fishing to a given Power, the draft only ensuring most-favoured-nation treatment in respect of commerce, navigation, and industry, from which terms His Majesty's Government hold that fishing is excluded.

(10) Finally, the Board desire me to advert to paragraph 3 of the reply\* from the Government of Newfoundland, in which it is suggested that when negotiations are projected with any particular country the Government of each Colony should be notified of the fact and invited to express any views it may desire to offer relating to the trade of that Colony with the country concerned. The Board are disposed to think that, where circumstances and time permit, such a course would certainly be desirable, and they would recommend it to Lord Elgin's favourable consideration.

I have, &c.,

H. LLEWELLYN SMITH.

11393

No. 76.

COLONIAL OFFICE to FOREIGN OFFICE.

[Answered by No. 78.]

SIR,

Downing Street, 16 April, 1908.

I AM directed by the Secretary of State for the Colonies to transmit to you, for the consideration of Secretary Sir E. Grey, copies of correspondence† with the Governments of the Dominions and the Board of Trade on the subject of the draft model commercial treaty suggested for adoption in future cases of commercial negotiations with foreign Powers.

\* No. 204.

† Nos. 62-68, 71, and 75.

2. I am also to transmit to you draft of a despatch\* which, with Sir E. Grey's concurrence, the Secretary of State proposes to address to the Dominion Governments conveying the final conclusions of His Majesty's Government on the questions.

I am, &c.,

C. P. LUCAS.

15562

No. 77.

ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 2 May, 1908.)

[Copy to Board of Trade, 15 May, 1908. L.F.]

[Answered by No. 81.]

(No. 59.)

Governor's Office, Bloemfontein,

Orange River Colony, 13 April, 1908.

MY LORD,

I HAVE the honour to inform you that my Ministers have had under consideration your Lordship's despatches, confidential, of the 3rd and 19th of February,† on the subject of the conduct of commercial negotiations with foreign Powers.

2. Ministers are of opinion that the draft Treaty of Commerce and Navigation, in so far as it deals with navigation could, of course, not be made applicable to the Orange River Colony, and that this Colony would, therefore, not be concerned in provisions of the nature of those dealt with in a portion of paragraph 1, in paragraphs 10 to 15, inclusive, in that part of paragraph 16 which refer to ports, and also in the provisions of Section 17.

3. The peculiar circumstances under which a Customs Union is constituted in South Africa render it necessary, in the opinion of Ministers, that the rights and privileges mutually conceded to one another by the British Colonies which are parties to the Union, should also be extended to at least one foreign Colonial Government, namely, that of Portuguese East Africa. Ministers also consider that it would be impracticable further to extend the same rights and privileges to all or any other foreign countries, and that all clauses in the draft Treaty of Commerce and Navigation, therefore, whereby the most-favoured-nation treatment is stipulated for to the non-British contracting party could not be agreed to by any British South African Colony in the Customs Union—which would necessarily preclude the Orange River Colony from giving its adhesion to a form of treaty containing Clauses 5 to 8 (inclusive) of the draft submitted.

4. Excise laws are specially enacted so as to protect or prefer South African manufactured spirituous liquors against all imported liquors of a similar kind, so that Clause 9 could not be accepted within the Union.

5. Paragraph 7, though not directly affecting the Orange River Colony, might conflict with the principle of the Customs Union Convention, by which transit dues may be made leviable at coast ports of Colonies within the Union.

6. It may, and probably will, become necessary in the not distant future further to provide by legislation against the influx of undesirable aliens. This, when effected, and the laws already existing affecting Asiatics and coloured persons generally, would debar the Orange River Colony's adhesion being given without some qualification in many possible instances to Clauses 1, 2, and 3 of the draft Treaty.

7. Paragraphs 20 and 21 would appear sufficiently to safeguard the position of those Colonies which do not desire to come in under the provisions of a treaty of the nature indicated in the draft, as well as of those which, having given their adhesion thereto, desire to withdraw therefrom.

8. From the geographical situation of this Colony and its very limited trade relations with foreign countries it seems most unlikely that the interests of the Orange River Colony would require this Colony's adhesion being given to any treaty likely to be entered into by the Imperial Government in the near future on the lines of the draft Treaty under consideration.

\* See No. 81.

† Nos. 70 and 73.



9. For the above reasons, therefore, Ministers do not consider it would serve any practical purpose as far as this Colony is concerned to labour the question as to the best means that might be devised with a view to consulting the Colonies in commercial negotiations when entered upon by the Imperial Government with foreign countries with whom this Colony has little or no commercial relations.

I have, &c.,  
HAMILTON GOOLD-ADAMS,  
Governor.

16500

No. 78.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 9 May, 1908.)

SIR, Foreign Office, May 8, 1908.  
I AM directed by Secretary Sir E. Grey to acknowledge the receipt of your letter of the 16th ultimo, No. 11393/1908,\* on the subject of the draft model Treaty suggested for adoption in future cases of commercial negotiations with foreign Powers.

I am to state that Sir E. Grey concurs in the terms of the despatch which it is proposed to address to the Dominion Governments conveying the final conclusions of His Majesty's Government on the questions.

I am &c.,  
W. LANGLEY.

16873

No. 79.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 12 May, 1908.)

[Answered by No. 83.]

SIR, Foreign Office, 9 May, 1908.  
WITH reference to the letter from the Colonial Office of 14th February last,† on the subject of the withdrawal of British self-governing Colonies from treaty obligations in matters of commerce and navigation, I am directed by Secretary Sir E. Grey to transmit to you herewith copy of a despatch which has been received from His Majesty's Minister at Bogota forwarding translation of a note from the Colombian Minister for Foreign Affairs relative to the draft Agreement between that Republic and His Majesty's Government.

Sir E. Grey sees no objection to the addition to the proposed declaration suggested by Senor Urrutia in the fourth paragraph of his note, but he observes that it would be necessary, in order to meet the objection raised in the third paragraph thereof, that a clause should be added stating that in the event of any British Colony denouncing the Anglo-Colombian Treaty of 1886, His Majesty's Government will not claim for natives of such Colony as British subjects any rights flowing from that Treaty, but he would be glad to be furnished with any observations which Lord Crewe may have to offer on the subject.

I am to add that a similar letter has been addressed to the Board of Trade.

I am, &c.,  
W. LANGLEY.

Enclosure in No. 79.

(No. 13. Commercial.)

SIR, Bogota, 27 March, 1908.  
WITH reference to my despatch, No. 50, Commercial, of the 17th of December last, I have the honour to report that some few weeks ago, on my requesting General Basquez Cobo to sign without further delay the draft Agreement permitting British Colonies to denounce the Anglo-Colombian Treaty of 1886, His Excellency

\* No. 76.

† 3884: not printed.

stated that, although he had given his assent to the British proposal, he found, on examining the matter more closely, that the draft submitted for his signature was open to some objections. The Colonies, he said, doubtless desired to obtain the faculty of denunciation for commercial reasons alone, but the Treaty dealt with many other matters as well, and the proposed Agreement, if adopted, would bring about an anomalous situation; a British subject from a denouncing Colony would still be a British subject in Colombia, and would be entitled to certain rights as such, whereas a Colombian in the same Colony would have no rights whatever.

I told His Excellency in reply that I was very imperfectly informed as to the object of the Agreement, but that he was very possibly right in supposing that it was connected with trade; in any case, I would be glad if he would put his views into writing, and I would then communicate them to His Majesty's Government. This he said he would do, but the late Government was then tottering to its fall, and, although I called his attention to the subject more than once, he never sent me the promised note.

The matter thus remained over for treatment by Dr. Urrutia, the new Minister, from whom I have now received a note, which I enclose in copy and translation.

As you will perceive, this communication is quite in accord with General Vasquez Cobo's remarks reported above, for, although the Colombian Government shows a disposition substantially to comply with the wishes of that of His Majesty, it raises certain objections to the Agreement as proposed, and makes some important suggestions for its amendment.

I have, &c.,  
FRANCIS STRONGE.

Sir E. Grey, Bart., M.P.,  
&c., &c., &c.

(Translation.)

MONSIEUR LE MINISTRE,

Bogota, 26 March, 1908.

YOUR EXCELLENCY has been so good as to propose the conclusion of a Convention by which the English Colonies shall be at liberty, on giving twelve months' notice, to withdraw from the Treaty of friendship, commerce, and navigation of 1886, now in force between the Republic of Colombia and Great Britain.

This Agreement is of the nature of a general Treaty, since besides declaring that there shall be perfect, firm, and inviolable peace, and sincere friendship between the two Governments and peoples, it contains stipulations, not only as regards matters of commerce and navigation, but also, among other subjects, as to trade marks and designs applicable to manufactures, privileges, and exemptions in favour of Consular Agents, liberty to enter, travel, reside, and possess every kind of property, right to carry on internal commerce, liberty of conscience and inviolability of domicile. Nevertheless, in the draft Agreement presented by Your Excellency with a view to the modification of the Treaty, this latter is described as a purely commercial agreement, and the Colonies are authorised to denounce it in its entirety.

Such a modification couched in these terms could not be accepted by the Republic, seeing that, as regards the Colonies denouncing it, the Treaty would be converted into an one-sided Agreement, which would throw the burden of all the obligations which it imposes on Colombia, without any compensation. For, whereas Colombians in such Colonies would be unable, on account of the denunciation, to claim the rights which the Treaty guarantees, natives of those Colonies in Colombia, as being British subjects, would put forward and make good such a claim, with the support of the Government of His Majesty, since the Treaty would continue in force as regards the latter.

Moreover, I consider that some modification is necessary in the latter part of the draft, and that it should be amplified in the following or similar terms: "but that nevertheless the goods produced or manufactured in any of His Britannic Majesty's Colonies, Possessions, or Protectorates shall enjoy equal treatment with that enjoyed by the most-favoured non-limitrophe nation, with the same reservations should the concession be conditional, so long as such Colony, Possession, or Protectorate shall accord to goods the produce or manufacture of Colombia, the same treatment as it gives to the produce and manufactures of the most-favoured nations."



I venture to hope that Your Excellency will consider as well-grounded the observations which I have set forth above; and should Your Excellency, in view of these remarks, decide to introduce any alteration into the above-mentioned draft, I have the pleasure to inform you that I should be ready to take the matter again into consideration, should you still wish to propose that the Treaty of 1866 should be altered.

I avail, &c.,  
FRANCISCO JOSE URRUTIA.

15562

No. 80.

ORANGE RIVER COLONY.

COLONIAL OFFICE to FOREIGN OFFICE.

[See No. 78.]

SIR, Downing Street, 12 May, 1908.  
WITH reference to the letter from this Office of the 16th of April,\* I am directed by the Earl of Crewe to transmit to you, to be laid before Secretary Sir E. Grey, copy of a despatch† from the Governor of the Orange River Colony on the subject of the proposed model commercial convention.

2. Lord Crewe would be glad to receive at an early date a reply to the letter from this Office referred to above.

I am, &c.,  
H. W. JUST.

16500

No. 81.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

[Copy to Board of Trade, 27 May, 1908. L.F.]

(Canada.)	(Cape of Good Hope.)
(Commonwealth of Australia.)	(Natal.)
(New Zealand.)	(Transvaal.)
(Newfoundland.)	(Orange River Colony.)
(Confidential.)	

MY LORD,  
SIR,

Downing Street, 22 May, 1908.

WITH reference to my predecessor's confidential despatch of the 19th of February,‡ [to Orange River Colony only] your despatch, No. 59, of the 13th of April,† I have the honour to transmit to Your Excellency to be laid before your Ministers, copy of a letter§ from the Board of Trade commenting upon the replies to my predecessor's confidential despatch of the 1st August, 1907,|| on the subject of the model draft treaty of commerce and navigation, [omit to Orange River Colony] together with copy of a despatch† from the Governor of the Orange River Colony received since this letter was written.

2. The various replies of the Governments interested show a certain divergence of views as to the terms of the draft treaty which does not permit of re-casting the draft in any shape which would receive universal acceptance. But the interests of the Dominions, as has been already pointed out by the Government of the Transvaal, are in any case adequately safeguarded by the provisions of Clauses 20 and 21 of the draft. All the Governments concerned appear to agree in regarding these clauses as adequate, although the Commonwealth of Australia has made a suggestion as to Article XX., which His Majesty's Government do not think that it would be practicable to adopt.

\* No. 76. † No. 77. ‡ No. 73. § No. 75. || No. 62.

3. I have to add that His Majesty's Government will gladly adopt the proposal made in the last paragraph of the letter from the Board of Trade that when negotiations are projected with any particular country the Government of each Dominion should, where time and circumstances permit, be notified of the fact and invited to express any views which it may desire to offer relating to the trade of that Dominion with the country concerned.

I have, &c.,  
CREWE.

22604

No. 82.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 23 June, 1908.)

[Answered 28 July by 24700 in Dominions No. 7.]

SIR, Foreign Office, 22 June, 1908.  
WITH reference to your letter, 14858, of the 9th instant,\* respecting commercial negotiations with the Salvadorean Government, I am directed by Secretary Sir E. Grey to transmit herewith copies of a despatch addressed to His Majesty's Minister at Guatemala, who is accredited to that Government, and of the despatch therein referred to, from which it will be seen that the draft Convention to be submitted to the Salvadorean Government contains certain modifications of the model draft Convention, which were inserted after consultation with the Board of Trade. In view thereof Sir E. Grey suggests for consideration that a further circular despatch should be addressed to the Governors-General and Governors of the self-governing Dominions.

I am, &c.,  
LOUIS MALLET.

Enclosure 1 in No. 82.

(No. 9. Commercial.)

SIR, Foreign Office, 15 June, 1908.  
WITH reference to your despatch, No. 9, Commercial, of the 26th of February last, respecting commercial relations with Salvador, I request that you will inform the Salvadorean Government that His Majesty's Government take note of their denunciation by the note of the Minister for Foreign Affairs of February 15th last of the Treaty with this country of October 24th, 1862, and of the annexed Convention of June 23rd, 1886, which will, therefore, terminate on the 15th of February, 1909. You should, at the same time, express the desire of His Majesty's Government to continue in Treaty relations with the Salvadorean Government in matters of commerce by the conclusion of a fresh agreement, and place before them, as a basis for negotiations, the Model Draft Treaty (copy of which is enclosed herewith) after embodying in it the modifications introduced at your suggestion into the draft of Treaty with Guatemala and set forth in your despatch, No. 8, Commercial, of the 13th of February. You should explain to the Salvadorean Government that this draft has been adopted by His Majesty's Government for projected negotiations with other countries.

I am, &c.,  
(For Sir E. Grey),  
LOUIS MALLET.

L. E. G. Carden, Esq.,  
&c., &c., &c.

Enclosure 2 in No. 82.

(No. 8. Commercial.)

SIR, British Legation, Guatemala, February 13, 1908.  
WITH reference to previous correspondence on the subject of the proposed Commercial Treaty between the United Kingdom and Guatemala, I have the honour

\* Not printed.



to report that I have this day submitted to the Guatemalan Minister for Foreign Affairs, as a basis for negotiation, a copy, with its Spanish translation, of the draft Treaty enclosed in your despatch, Commercial, No. 10, of October 25th, 1907, modified in accordance with the suggestions which were contained in my Commercial telegram, No. 1, of the 22nd of January last, and were sanctioned in your telegram, No. 2, of the 25th of the same month.

I enclose herewith, for facility of reference, a memorandum recapitulating the alterations and additions made to the text of the original draft, and showing the consequent changes in the numeration of many of the articles.

I should mention that it is very probable that the Guatemalan Government will ask for the insertion of an article, similar to Article 1 of the Protocol to the Anglo-Nicaraguan Treaty, making exception to the other Central American Republics as regards the application of the most-favoured-nation treatment.

I have, &c.,

LIONEL CARDEN.

Sir Edward Grey, Bart.,  
&c., &c., &c.

MEMORANDUM showing the text and numeration of the Articles of the Draft Treaty between the United Kingdom and Guatemala submitted to the Guatemalan Minister for Foreign Affairs, as compared with those of the original draft enclosed in the Foreign Office Commercial Despatch, No. 10, of October 25th, 1907.

Original Numeration.	Alterations in Text.	New Numeration.
Article I. ...	Identical ...	Article I.
Article II. ...	Identical ...	Article II.
Article III. ...	Identical ...	Article III.
Article IV. ...	New text as follows:— "The subjects or citizens of each of the contracting parties:— "1. Shall have full liberty with their families to enter, leave, travel, or reside in any part of the territories of the other contracting party. "2. They shall be exempted from all compulsory military service whatever, whether in the army, navy, national guard or militia, and shall not be subject to the jurisdiction of any military tribunal. "3. They shall be equally exempted from all judicial and municipal functions whatever, other than those imposed by the laws relating to juries, as well as from all extraordinary war contributions, forced loans and every species of military requisitions or service. "4. In all other matters affecting their persons or property any privilege, favour, or immunity which either contracting party has actually granted or may hereafter grant to the subjects or citizens of any other foreign State, shall be extended immediately and unconditionally to the subjects or citizens of the other." New Article as follows:— "The dwellings, manufactories, warehouses, and shops of the subjects or citizens of each of the contracting parties in the territories of the other, and all premises appertaining thereto destined for purposes of residence or commerce, shall be respected. "It shall not be allowable to make a search of, or a domiciliary visit to, such dwellings and premises, or to examine or inspect books, papers, or accounts, except under the conditions and with the forms prescribed by the laws for subjects or citizens of the country, or of the most-favoured nation. "The subjects or citizens of each of the two contracting parties in the territories of the other shall have free access to the Courts of Justice for the prosecution and defence of their rights, without other conditions, restrictions, or taxes beyond those imposed on native subjects or citizens; they shall enjoy the same treatment as native subjects or citizens in all that concerns deposits, sureties, and fees in legal cases, and shall, in the same manner as native subjects or citizens, be at liberty to employ, in all cases, their advocates, attorneys,	Article IV.
Article —		Article V.

Original Numeration.	Alterations in Text.	New Numeration.
Article V.	or agents from among the persons admitted to the exercise of those professions according to the laws of the country." "The following words in the original draft are omitted in the new:— "The merchandise, the produce or manufacture of the United Kingdom, enumerated in the tariff annexed to this Treaty, shall not, on importation into . . . . . be subjected to higher duties than those mentioned in the said tariff."	Article VI.
Article VI.	Identical ...	Article VII.
Article VII.	Identical ...	Article VIII.
Article VIII.	Identical ...	Article IX.
Article IX.	Identical ...	Article X.
Article X.	Identical ...	Article XI.
Article XI.	Identical ...	Article XII.
Article XII.	Identical ...	Article XIII.
Article XIII.	Identical ...	Article XIV.
Article XIV.	Identical ...	Article XV.
Article XV.	Identical ...	Article XVI.
Article XVI.	Identical ...	Article XVII.
Article XVII.	Identical ...	Article XVIII.
Article XVIII.	Identical ...	Article XIX.
Article XIX.	Identical ...	Article XX.
Article —.	New Article as follows:— "Any controversies which may arise respecting the interpretation or the execution of the present Treaty, or the consequences of any violation thereof, shall be submitted, when the means of settling them directly by amicable agreement are exhausted, to the decision of Commissions of Arbitration, and the result of such Arbitration shall be binding upon both Governments. "The members of such Commissions shall be selected by the two Governments by common consent, failing which, each of the parties shall nominate an arbitrator, or an equal number of arbitrators, and the arbitrators thus appointed shall select an umpire. "The procedure of the arbitration shall in each case be determined by the contracting parties, failing which the Commission of Arbitration shall be itself entitled to determine it beforehand."	Article XXI.
Article XX.	Identical ...	Article XXII.
Article XXI.	The duration of the Treaty has been fixed at ten years. In other respects the Articles are identical.	Article XXIII.

NOTE.—Wherever the word "subjects" is used, the alternative words "or citizens" have been added.

16873

No. 83.

COLONIAL OFFICE to FOREIGN OFFICE.

[Answered by 24700 in Dominions No. 7.]

SIR,

Downing Street, 23 June, 1908.

I AM directed by the Earl of Crewe to acknowledge the receipt of your letter of the 9th May,\* forwarding copy of correspondence on the subject of the draft Agreement between the Colombian Republic and His Majesty's Government on the subject of the withdrawal of the self-governing Colonies from the Anglo-Colombian Treaty of 1886.

2. Sir Edward Grey observes that it would be necessary, in order to give effect to the suggestion made in the third paragraph of the note from the Colombian Minister, to add a clause to the draft Treaty stating that in the event of any British Colony denouncing the Treaty of 1886 His Majesty's Government will not claim for natives of that Colony as British subjects any right flowing from that Treaty.

\* No. 79.



3. Lord Crewe desires me to state that he considers that there are grave objections to the adoption of any Treaty which makes in regard to purely political rights, as against commercial or quasi-commercial rights, a distinction between British subjects according to the place of their birth or residence. It appears to him that such a distinction, if drawn, would be at variance with the fundamental principle on which the Empire is maintained, and he is strongly of opinion that any difference in Treaty matters which exists between British subjects must be confined to matters purely or mainly commercial.

4. Lord Crewe would, therefore, suggest that the Colombian Government should be asked to agree to a Treaty under which the British self-governing Colonies shall be allowed to withdraw from Clauses 2-10, which are the more important commercial clauses of the Treaty of 1836. Or in the alternative, the Treaty might merely specify that the British Dominions could withdraw, on notice, from the commercial clauses of the Convention of 1886. On the whole, however, it appears to Lord Crewe that it would be more convenient to specify clearly the clauses from which the Dominions would be entitled to withdraw. In all other matters the Dominions should continue to be bound by the Treaty unless and until the Treaty, as a whole, is denounced by His Majesty's Government.

5. Lord Crewe would be glad to learn Secretary Sir Edward Grey's views on the points raised in this letter.

I am, &c.,

FRANCIS J. S. HOPWOOD.

### VIII.

#### (Resolution XI.)

#### (2) Withdrawal of the Colonies from various Treaties.

42020

No. 84.

AUSTRALIA.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 2 December, 1907.)

[Answered by No. 85.]

SIR,

Foreign Office, 30 November, 1907.

I AM directed by Secretary Sir E. Grey to invite your attention to the letters from this Office of October 10th and December 3rd and to the Colonial Office letter of October 16th, 1906,\* on the subject of the adhesion of the Commonwealth of Australia to the Anglo-Japanese Treaty of 1894.

An enquiry has been received from the Japanese Embassy as to the present position of Queensland under that Treaty, and I am to request that Sir E. Grey may, if Lord Elgin sees no objection, be furnished as soon as possible with information, for communication to the Japanese Ambassador, as to whether the inclusion of that Colony in the Federated Commonwealth has in any way affected the validity of the separate adhesion Treaty which she concluded with Japan in 1897.

I am, &c.,

F. A. CAMPBELL.

42020

No. 85.

AUSTRALIA.

COLONIAL OFFICE to FOREIGN OFFICE.

[Answered by No. 86.]

SIR,

Downing Street, 28 December, 1907.

I AM directed by the Earl of Elgin to acknowledge the receipt of your letter

\* 34748, 44676, and 34748 : not printed.

of the 30th of November\* in which you ask, in view of an enquiry made by the Japanese Embassy, whether the inclusion of Queensland in the Commonwealth of Australia has affected the validity of the adhesion of that Colony to the Anglo-Japanese Treaty of 1894.

2. As Sir E. Grey is aware, this question formed the subject of discussion with the Prime Minister of the Commonwealth, Sir E. Barton, in 1902 and the matter was referred to the Law Officers. A copy of their Report was enclosed in the letter from this office of the 2nd of May, 1902.† The question received further consideration this summer after the Colonial Conference, at which the matter was brought forward by Mr. Deakin. (See pages 46-48 of the accompanying confidential print.‡) I am to enclose copies of opinions handed in by Mr. Deakin during the Conference, and of an opinion§ which the Law Officers of the Crown have just given to Lord Elgin.

3. Lord Elgin has no doubt that Sir E. Grey will take the same view as the Law Officers, viz., that the Treaty still binds the Commonwealth in respect of Queensland, but he regards it as important to secure the concurrence of the Commonwealth Government in this view, and he accordingly proposes to address to the Governor-General the despatch|| of which a draft is enclosed. Lord Elgin would invite Sir E. Grey's special attention to paragraphs 6-13 of the draft, which have been inserted in the belief that Sir E. Grey would wish that the Report of the Law Officers should be accompanied by some detailed observations on the part of His Majesty's Government.

4. Should Sir E. Grey concur in the terms of this draft, Lord Elgin would suggest that, pending the receipt of Lord Northcote's reply, the Japanese Government should be informed that His Majesty's Government are in communication with the Australian Government on the subject.

5. Lord Elgin does not know whether the Japanese Embassy has given any explanation of its enquiry, but it has occurred to him that it may have some connexion with the answers returned to certain questions in the Commonwealth Senate on the 6th ultimo and of certain statements made by Senator Pearce in the course of debate in the Australian Senate. Copies of these questions and answers are

enclosed, and the volume of the debates in question is forwarded for perusal and return (see pages 5867 *et seq.*).

No. 39, pp. 5867 *et seq.*

I am, &c.,

C. P. LUCAS.

Enclosure 2 in No. 85.

[20531.]

(39/02.)

COMMONWEALTH OF AUSTRALIA.

TREATY WITH JAPAN—AGREEMENT BETWEEN JAPAN AND QUEENSLAND—IMMIGRATION RESTRICTION ACT, 1901.

OPINION OF THE ATTORNEY-GENERAL.

The material documents in this matter are:—

- (1) Treaty between Great Britain and Japan, signed 16th July, 1894; especially Articles I., III., and XIX. (Appendix A).
- (2) Protocol, 16th March, 1897, setting out conditions of Queensland acceding to the Treaty (Appendix F).
- (3) Agreement between Queensland and Japanese Governments, contained in correspondence (Appendix H).

Article I. of the treaty provides (*inter alia*) that the subjects of each of the two high contracting parties shall have full liberty to enter, travel, or reside in any part of the dominions and possessions of the other.

Article III. deals with reciprocal freedom of commerce and navigation.

Article XIX. applies the Treaty "so far as the laws permit" to all British possessions, with exceptions which include all the Australian Colonies; and provides that it shall be made applicable to any of the excepted Colonies on whose behalf

\* No. 84.

† 15369 in Dominions No. 3.  
§ No. 89 in Vol. VII. of Law Officers' Opinions.

‡ Miscellaneous No. 203.  
|| See No. 88.



notice is given within two years from the exchange of ratifications. (Subsequently extended to three years.)

The protocol sets out:—

- (1) That the stipulations of Articles I. and III. shall not in any way affect the laws, ordinances, and regulations with regard to trades, the immigration of labourers and artisans, police and public security, which are in force or may be hereafter enacted in Japan or Queensland;
- (2) That the Treaty shall cease to be binding, as between Japan and Queensland, at the expiration of 12 months' notice on either side of a desire to terminate it.

The Right Honourable the Prime Minister asks for my opinion on the legal questions arising in relation to the Treaty and Agreements mentioned and the Immigration Restriction Act, 1901.

In the first place, I am of opinion that Act No. 17 of the Federal Parliament is not invalidated by conflict with the Treaty in question. See cases cited by Lefroy, *Legislative Power in Canada*, pages 255-259. Strictly speaking, therefore, no further question of law arises—though legal principles must be applied to the construction of the Treaty in order to ascertain whether any breach of Treaty obligations is involved in the passing or administration of the Act.

In the construction of the Treaty, the chief questions which arise are:—

- (1) whether the Treaty, having been applied to the Colony of Queensland before the establishment of the Commonwealth, has any application now that Queensland is a State of the Commonwealth.
- (2) whether, if so, the Immigration Restriction Act involves any conflict with the Treaty.

It will be convenient to begin with the discussion of the latter questions. Assuming then for the purpose of the argument, that the Treaty still applies to Queensland, subject to the stipulations of the Protocol, the question is how far the Immigration Restriction Act, 1901, applies to Japanese.

The scope of the Federal Act is comprised in paragraphs (a) to (g) of Section 3, which define the several classes of "prohibited immigrants." Of these, paragraphs (b) to (f) evidently come within the category of laws with regard to "police and public security"; while paragraph (g) comes within the category of laws with regard to "the immigration of labourers and artisans." If, therefore, the Treaty continued in force, paragraphs (b) to (g) would not be affected by it. The only question is as to paragraph (a)—the education test. With regard to this, no violation of the Treaty is involved in the mere passing of the Act. The application of the education test to Japanese labourers and artisans would certainly not conflict with the Treaty. Its application to Japanese, other than labourers and artisans, would be such a violation, unless it could be supported as a "law, ordinance, or regulation relating to trade, police, or public security."

Reading the words "public security" in their widest sense, they might perhaps be held to cover the imposition of this obligation upon the whole Japanese nation, but reading the stipulations of the Protocol as a whole, with the provisions of the Treaty, this would be a very strained construction. I do not think it could be supported.

So far, it has been assumed that the Treaty still applies to the State of Queensland. I am of opinion, however, that this is not the case. The establishment of the Commonwealth may be deemed to have annulled the Treaty.

The text writers appear to be unanimous that the obligation of Treaties is founded "not merely upon the contract itself, but upon those mutual relations between the two States which may have induced them to enter into certain engagements." (Wheaton, *International Law*, 3rd Engl. Ed., p. 44.)

"The obligations of Treaties, even when some of their stipulations are, in their terms, perpetual, expire in case either of the contracting parties loses its existence as an independent State, or in case its internal constitution is so changed as to render the Treaty inapplicable to the new condition of things." Halleck, *International Law*, 3rd Ed., Vol. 1, p. 295; Sir Sherston Baker, *First Steps in International Law*, p. 104.

"If, again, a Treaty is made in view of the continuance of a particular form of government in one or both of the contracting States, either of them may release

itself from the agreement so soon as its provisions become inconsistent with constitutional change.

"It is also an implied condition of the continuing obligation of a Treaty that the parties to it shall keep their freedom of will with respect to its subject-matter, except in so far as the Treaty is itself a restraint upon liberty, and the condition is one which holds good even when such freedom of will is voluntarily given up. If a State becomes subordinated to another State, or enters a confederation, of which the constitution is inconsistent with liberty of action as to matters touched by the Treaty, it is not bound to endeavour to carry out a previous agreement in defiance of the duties consequent upon its newly formed relations." (Hall, *International Law*, pp. 373-4.)

"The United States regards its Treaties with Hanover as terminated in consequence of incorporation with Prussia in 1866, with Nassau as terminated for the same reason in 1846, and its Treaties with the Two Sicilies as terminated by absorption of that Kingdom into Italy." Wharton, *Dig.*, pp. 63, 64; Wheaton, *International Law*, p. 44.

In the present instance the Treaty was only local. Queensland was not a high contracting party but a possession of one of the high contracting parties to the Treaty adhering separately and on special conditions. The Queensland Parliament had at the time the control of immigration into that Colony. The other Colonies, which now are States of the Commonwealth, declined to adhere to the Treaty. The control of immigration, has, by the establishment of the Commonwealth, passed from the Parliament of Queensland to that of the Commonwealth. So far as immigration is concerned, the boundaries between Queensland and the rest of the Commonwealth have been obliterated as completely as if the Commonwealth were a unified possession. The right of immigration into Queensland would practically, and perhaps legally, amount to a right of entering from Queensland into all States of the Commonwealth, though all the others had expressly refused to permit it. Under these circumstances the Commonwealth cannot be taken to be bound by the Treaty as accepted by the Colony of Queensland under a condition of affairs which has ceased to exist.

As regards the agreement between the Governments of Queensland and Japan made in connection with the Imperial Treaty, I am of opinion that it does not bind the Government of the Commonwealth. It was made on the eve of federation after the acceptance by Queensland of the Draft Constitution, and it purports to be no more than an announcement of the policy which would be acted upon by the Queensland Government so long as it retained the control of the question, with express notice that the control would shortly pass out of its hands. Sir James Dickson's letter accepting the proposals made by the Japanese Government is dated October the 3rd, 1900, some time after the Commonwealth Act had received the Royal Assent. It was, therefore, clearly a temporary and provisional arrangement and Sir James Dickson's letter explicitly directs attention to this fact.

Neither the Treaty nor the Agreement being binding upon the Commonwealth, and the Federal Immigration Restriction Act having been passed, it is probably desirable that an intimation of the change in the situation, consequent upon the creation of the Commonwealth, be conveyed to the Japanese Government in the most diplomatic and considerate manner possible through the Secretary of State for the Colonies.

ALFRED DEAKIN.

16th January, 1902.

MINUTE FOR THE RIGHT HONOURABLE THE PRIME MINISTER OF THE COMMONWEALTH OF AUSTRALIA.

The Governor-General has to submit, for the information of the Right Honourable the Prime Minister of the Commonwealth of Australia, the subjoined copy of a telegraphic despatch, which has this day been received from the Secretary of State for the Colonies:—

"Your telegram of 18th January, am consulting Law Officers, but, as at present advised, consider both Treaty with Japan and Agreement of October, 1900, still subsist and Immigration Restriction Act inconsistent with latter."

HOPETOUN,  
Governor-General.

30th January, 1902.



(203/07.)

## COMMONWEALTH AND TREATIES.

## OPINION OF THE ATTORNEY-GENERAL.

March, 1907.

Opinion is sought by the Prime Minister "as to how far the Commonwealth is bound by the Commercial Treaties of the Empire. These Treaties may be divided for the present purposes into the following classes:—

- (A) Treaties without any special reference to the Colonial possessions of the Empire;
- (B) Treaties with a proviso that they do not apply to certain of such possessions unless the adhesion of those possessions is specially notified; and to which some only of the Colonies which now form the Commonwealth gave their adhesion;
- (C) Treaties with a similar proviso to which all the Colonies adhered;
- (D) Treaties made since the establishment of the Commonwealth to which adhesion has been given by the Federal Government.

Opinion is chiefly sought with respect to the second class, as to "whether the status of the adhering Colonies having been altered by federation, their engagements bind the Commonwealth. If so, do they bind the whole Commonwealth, or only those parts which adhered. If the latter, how are they affected by those provisions of the Constitution requiring uniform treatment of States and individuals."

(A) *Treaties without any special reference to the Colonial Possessions of the Empire.*

The position with respect to these Treaties has been stated by Todd, Parliamentary Government in the Colonies, page 265:—

"It is a well-understood principle that the privileges and advantages, commercial or otherwise, which have been accorded to a nation, pursuant to any Treaty or Convention entered into with another nation, do merely extend to the particular State or Sovereign Power which has contracted the same, to the exclusion of the Colonial possessions of such Power unless they are expressly named in the Treaty; and that Colonies not so expressly included cannot claim to be admitted to share in the Treaty privileges enjoyed by the Mother Country, as of right, on the ground that they form part of the Empire. The Colonies of a High Contracting Power not included in a Treaty can only be admitted to a participation in the benefits of the same by a further Treaty or Convention made on their behalf, or by a law to be passed by the foreign State, admitting them to the enjoyment of the advantages sought to be attained."

- (B) *Treaties with a proviso that they do not apply to certain of such Possessions unless the adhesion of those Possessions is specially notified, and to which some only of the Colonies which now form the Commonwealth gave their adhesion.*

The provision in a Treaty to the effect that it is not to extend to Colonies unless they notify their adherence is a recognition of a qualified status of self-governing Colonies in international arrangements. Though the Treaty is made through the Sovereign authority, yet it is only to be binding on a Colony when those entrusted with authority in the Colony consent. The Treaties for the greater part deal with matters of public policy; the control of the public policy is, under their Constitutions, left by the Imperial authorities to the Colonies. Therefore, before they can be regarded as being bound by a Treaty affecting the matters over which they have power, they must assent. Though in form when the Colony adheres to a Treaty, the Treaty is a Treaty with the Empire, yet in substance it is a separate agreement between the foreign party to the Treaty and the Colony.

The rules with respect to the continuance of Treaties between nations would be applicable to the interpretation of the agreement made with the Colony through the Imperial authorities.

"If a Treaty is consistent at the outset with the right of self-preservation, it is an implied condition that it shall remain so. While a State may surrender by compact its natural right to independence, such an intention will never be inferred,

it must be clearly expressed. Therefore a Treaty, which was not intended to be a menace to the life or independence of a State at the time of its execution, becomes voidable the moment subsequent events invest it with that character. In the same way if a compact is made in contemplation of the continuance of a particular form of government in one or both of the contracting States, either may terminate it whenever internal constitutional changes render it inapplicable to the new circumstances. It is also an implied condition of the continuing obligation of a Treaty that the parties to it shall retain their freedom of will with respect to its subject-matter. For example, if a State, independent at the time of the execution of a Convention, subsequently becomes subordinate to another through the fortunes of war or enters into a confederation whose constitution restrains its liberty of action, its obligation to perform the prior agreement becomes subordinate to its restraints and obligations involved in its new relations. Such a case constitutes an exception to the general rule that a prior Treaty takes precedence of a subsequent one." (Taylor, International Public Law, p. 401; See also the authorities cited in the Opinion of the Attorney-General, January 16th, 1902.)

Apply these principles to the Australian conditions. In Australia, prior to federation, there were six States, each of which possessed full power within its defined territorial jurisdiction to control public policy, *inter alia*, in matters affecting trade with other countries, and navigation and shipping. There were six distinct political entities who were within the ambit of their authority practically sovereign. With respect to matters under their jurisdiction the power to adhere to Treaties has been conceded, and, having self-government, they were able to direct their wills to comply with the provisions of any Treaty to which they had adhered. Under federation the position has been changed; a new political entity has been created; the six States have in certain matters become subordinate. Among these matters they have surrendered their power to control public policy affecting trade with other nations, external affairs, customs, and navigation and shipping. Their freedom of will has gone so far as these subjects are concerned, and the direction of them passed to another sovereign power.

"Undoubtedly Treaties may be terminated by the absorption of powers into other nationalities and the loss of separate existence, as in the case of Hanover and Nassau, which became by conquest incorporated into the Kingdom of Prussia in 1866. Cessation of independent existence rendered the execution of Treaties impossible. But where sovereignty in that respect is not extinguished, and the power to execute remains unimpaired, outstanding Treaties cannot be regarded as avoided because of impossibility of performance." (Terlinden v. Ames, 184 U.S., p. 283.) In the case of the States of the Commonwealth, owing to the action of the Australian people in depriving the States of the power to deal with matters under Section 51 and by the exercise of the transferred powers by the Commonwealth Treaties made with respect to these matters may become impossible of performance. The question is further mentioned at page 286 of the judgment cited above and an extract is given from a statement of Mr. J. C. Bancroft Davis:—

"The establishment of the German Empire in 1871 and the complex relations of its component parts to each other and to the Empire necessarily give rise to questions as to the Treaties entered into with the North German Confederation and with many of the States composing the Empire. It cannot be said that any fixed rules have been established. Where a State has lost its separate existence, as in the case of Hanover and Nassau, no question can arise. Where no new Treaty has been negotiated with the Empire, the Treaties with the various States which have preserved a separate existence have been resorted to. . . . Such a question after all is a political one."

See decision of the Supreme Court, United States, in an extradition case arising out of Treaty made with Prussia in 1852. Held, that as the German Government had officially recognised and continued to recognise the Treaty between United States and the Kingdom of Prussia as still in force and not terminated because of impossibility of performance and the Executive Department of the United States Government had accepted that view and proceeded accordingly, it was not for the Court to question the correctness of the conclusions of the German Government as to the effect of the adoption of the Constitution of the German Empire.

As far as the Commonwealth is concerned, it is not bound by any Treaty made with the States and to which it has not adhered. As regards the States, as the exercise by the Commonwealth of any of the powers of legislation with respect to



matters transferred from the States the Treaties would become impossible of performance by the States and thereby determined so far as the particular matter is concerned.

Following the analogy of the United States decision above cited, there may be certain Treaties adhered to by the States which may be recognised. But the Commonwealth cannot, either by express agreement or by conduct, adopt any Treaty affecting trade, commerce, or revenue so as to give any preference to any State (Section 99). Attention may also be required to the express provisions of Section 92 of the Constitution which overrides all Treaties adhered to by some States only or otherwise contravening the Constitution.

(c) *Treaties with a similar proviso to which all the Colonies adhered.*

The mere fact that all instead of some only of the States have adhered to Treaty does not alter the position. The principle of determination is the same in each case.

(d) *Treaties made since the establishment of the Commonwealth to which adhesion has been given by the Federal Government.*

No comment is necessary upon these.

4th March, 1907.

LITTLETON E. GROOM,  
Attorney-General.

Enclosure 5 in No. 85.

QUEENSLAND: JAPANESE TREATY.

Senator PEARCE asked the Minister representing the Minister of External Affairs, upon notice:—

- (1) Was there in existence, prior to the inauguration of the Commonwealth, any Treaty, Protocol, or arrangement between the Government of Japan and the Colony of Queensland?
- (2) On the establishment of the Commonwealth, did the Commonwealth become responsible for such Treaty, Protocol, or arrangement; if not, is the Government of the State of Queensland still a party to it?
- (3) If such Treaty, Protocol, or arrangement exists either with the Government of the Commonwealth or the State of Queensland, will the Minister inform the Senate as to its terms and provisions?

Senator BEST: The answers to the Honourable Senator's questions are as follows:—

- (1) Yes.
- (2) The legal question as to the responsibility of the Commonwealth has not been decided. The Commonwealth has accepted no responsibility.
- (3) The Anglo-Japanese Treaty of Commerce and Navigation was published as a Parliamentary Paper. (See 1905, Vol. II., page 1381.) Queensland, on the 16th March, 1897, acceded to the Treaty with a protocol of that date. (See Queensland Parliamentary Papers, 1899, A. 5.)

The arrangement as to the introduction of Japanese is contained in correspondence published as Queensland Parliamentary Paper, 1901, A. 56.

Senator PEARCE: Arising out of that question, I beg to ask the Vice-President of the Executive Council whether the Government have approached the Government of the United Kingdom with reference to the Commonwealth becoming a party to that Treaty for the purpose of obtaining certain trade advantages to the Commonwealth?

Senator BEST: I must ask my honourable friend to give notice of the question, as the matter is not within my personal knowledge.

1248

No. 86.

AUSTRALIA.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 11 January, 1908.)

[Answered by No. 89.]

SIR,

Foreign Office, 10 January, 1908.

I AM directed by Secretary Sir E. Grey to acknowledge the receipt of your letter of the 28th ultimo,\* respecting the validity of the adhesion of Queensland to the Anglo-Japanese Treaty of 1894 in view of the subsequent inclusion of that Colony in the Commonwealth of Australia.

Sir E. Grey concurs in the terms of the despatch† which the Secretary of State for the Colonies proposes to address to the Governor-General of Australia, and which, in his opinion, clearly and ably states the case. The following verbal alterations occur to him however:—

Towards the end of paragraph 3, and in paragraph 4, he would suggest that the words "binding force" should be substituted for the word "bindingness." Towards the beginning of paragraph 6 it might be well to replace the word "evidence" by the word "precedent"; and it would perhaps be preferable towards the end of paragraph 8 to describe His Majesty's subjects as "commorant" in the Commonwealth rather than "domiciled," or simply to omit the word "domiciled" so as to include all British subjects resident therein.

The volume of debates in the Australian Senate which accompanied your letter is returned herewith.

Sir E. Grey would be glad to receive in due course a copy of the despatch† to Lord Northcote.

I am, &c.,

F. A. CAMPBELL.

1777

No. 87.

AUSTRALIA.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 16 January, 1908.)

SIR,

Foreign Office, 16 January, 1908.

I AM directed by Secretary Sir E. Grey to transmit to you herewith a copy of a note from the Italian Ambassador in London respecting the applicability of the Anglo-Italian Treaty of Commerce and Navigation, 1883, to all the States of the Australian Commonwealth.

Sir E. Grey requests that he may be furnished with information respecting the Australian Navigation Bill, 1907, to which the Ambassador refers; and with the observations of the Secretary of State for the Colonies on the question raised by His Excellency.

I am, &c.,

LOUIS MALLET.

Enclosure in No. 87.

(Translation.)

(192.)

YOUR EXCELLENCY,

Italian Embassy, 31st December, 1907.

YOUR EXCELLENCY will be aware that by the Declaration of March 10th, 1884, all the British Australian Colonies, except South Australia, adhered to the Anglo-Italian Treaty of Commerce and Navigation of June 15th, 1883.

The Australian Commonwealth was constituted in 1901 and no communication was received by the Italian Government from the Cabinet of London such as to lead them to doubt as to the extension of the above-mentioned Treaty to all the States



of the Commonwealth composing a Customs Union. However, the Bill recently laid before the Australian Parliament (Navigation Bill, 1907), which, *inter alia*, prevents the interference of the Foreign Consuls in the greater part of the operations relative to the wreck of vessels of their respective countries, has led my Government to consider that it is now necessary that the British Government should declare the absolute applicability of the Treaty of 1883 to all the Australian Commonwealth. In fact Article 9 of that Treaty protects Italy from the application of the above-mentioned provision of the Navigation Bill in question; but my Government would regret, and in their opinion it would not be consonant with the interests of navigation, if in the actual circumstances South Australia should take any exception thereto.

I shall be glad to receive Your Excellency's reply on this matter.

I have, &c.,

A. DI SAN GIULIANO.

1243

No. 88.

AUSTRALIA.

THE SECRETARY OF STATE TO THE GOVERNOR-GENERAL.

[Answered by No. 94.]

(No. 14.)

MY LORD,

Downing Street, 17 January, 1908.

WITH reference to previous correspondence, I have the honour to request Your Excellency to inform your Ministers that the Japanese Embassy have enquired at the Foreign Office as to the present position of Queensland under the Anglo-Japanese Treaty of 1894.

2. As you are aware, the question now asked by the Japanese Government has been raised and discussed already. Mr. Deakin, as Attorney-General, advised the Commonwealth Government in January, 1902, that the Treaty was not binding on the Commonwealth. This advice was brought by the Commonwealth Government to the notice of His Majesty's Government, and His Majesty's Government were requested to refer the matter to the Law Officers of the Crown for their opinion. The Law Officers in due course reported that, in their opinion, the Treaty of 16th July, 1894, was not affected as regards Queensland by the entry of Queensland into the Commonwealth of Australia; that the treaty was not between Queensland and Japan but between His (Her late) Majesty and Japan; that the case was not one in which an independent Power had become merged by conquest or cession in the territories of another Power; that the portion of His Majesty's dominions known as Queensland had combined with other portions of His Majesty's dominions to form the Commonwealth of Australia, which was itself a part of His Majesty's dominions; that the Treaty seemed to them to affect Queensland as a State of the Commonwealth just as much as it affected Queensland as a Colony.

3. The substance of this opinion was conveyed by Mr. Chamberlain in July, 1902, to Sir E. Barton, who was in England at that time, and His Majesty's Government were, until recently, under the impression that the opinion was acquiesced in by the Commonwealth Government. Not only was the discussion not pursued by the Commonwealth Government, but in the letter enclosed in your despatch, No. 99, of the 7th May, 1906,\* in which it was requested that representations might be made to the Japanese Government with a view to securing to the Commonwealth, by a Treaty, the commercial benefits of the Anglo-Japanese Treaty of 1894, Mr. Deakin alluded to the opinion which he had given as Attorney-General in 1902, and to the fact that it had not commended itself to Mr. Chamberlain, without suggesting that he considered the matter as still an open one; and he left unnoticed a passage in the answer of the Japanese Government which implied that the Japanese Government regarded the Treaty of 1894 as still binding in respect of Queensland. I may also point out that in the correspondence which took place in 1902, after the opinion of the Law Officers had been communicated to Sir E. Barton, between His Majesty's Government, the Commonwealth Government, and the Government of South Australia on the important constitutional questions

\* 20802: not printed.

arising out of the "Vondel" case, it was assumed on all sides that the Anglo-Dutch Convention of 1856 retained its original binding force in Australia, and that in the correspondence which took place with the Commonwealth Government in 1903-4 as to giving effect to the Resolution of the Colonial Conference of 1902 on the subject of the coasting trade of the Empire, the Commonwealth Government admitted the continued binding force of the Anglo-Greek Convention of 1886 (to which all the Australian Colonies except New South Wales had adhered) by requesting that the Commonwealth might be relieved of its obligations under that Convention.

4. At the recent Colonial Conference, however, Mr. Deakin called attention to the opinion which he gave as Attorney-General in January 1902, and to an opinion given this year by the present Attorney-General, Mr. Groom, as suggesting doubt as to the binding force on the Commonwealth, as a Commonwealth, of treaties binding on the States before its establishment, whether such treaties made no special reference to the Colonies, or whether all or any of the Australian Colonies had formally adhered, and he asked that copies of these two opinions might be submitted to the Law Officers of the Crown for their consideration.

5. I forwarded these opinions to the Law Officers of the Crown, as desired, and I have now to state that the Law Officers have advised that treaties binding on the States of the Commonwealth before Confederation are still binding on the Commonwealth, in respect of the State concerned. I have also consulted the Secretary of State for Foreign Affairs, and he desires me to make the following observations:—

6. While it is not possible to formulate any universal rule, a considerable body of precedent can undoubtedly be adduced in support of the view that on the entrance of Sovereign States into a confederation, all such treaties existing between those States and foreign Powers before federation as are inconsistent with the terms of the federation disappear. This principle, so far as it has received acceptance in international law, appears to rest on the ground that the loss of the State's separate existence is a matter of such grave character as practically to destroy one of the parties to the treaty and render impossible the fulfilment of its international obligations.

7. All the precedents and authorities cited by Mr. Deakin and by Mr. Groom in their opinions relate to the treaties and obligations of independent Sovereign States. It may be that all or some of those treaties and obligations determine when such States are merged in another independent State by federation or absorption, because it is no longer possible to carry them out. It would, in any event, be difficult to establish by a parallel case, that the entrance of an Australian Colony into the Australian federation has rendered impossible the fulfilment of the duty of carrying out the terms of any treaty binding upon such Colony, but what makes the case of an Australian State wholly distinct from the cases quoted is that the Australian Colonies were not independent States and the federation in which they have been merged is not an independent State. A treaty binding upon an Australian Colony, prior to federation, was not, from an international point of view, between the particular Colony and the particular foreign country concerned, but between the British Sovereign and that Power. The obligation of the Sovereign was in respect of a certain portion of his dominions, viz., a certain Australian Colony, and that obligation was not based upon the particular character of the Government in force in that Colony, nor can it be lessened by the entry of the Colony into a federation which is also part of his dominions. In the case of a treaty with a Sovereign State the treaty is entered into on the understanding that the State will remain Sovereign; in the case of a treaty with His Majesty which binds a Colony, on the assumption that the Colony will remain part of His Majesty's dominions; and in either case, the treaty remains binding until the assumption is contradicted by facts.

8. Mr. Deakin at the Colonial Conference dealt with all treaties binding on the Australian Colonies before federation on the same footing, that is to say, he drew no distinction, as regards their binding force on the Commonwealth, between treaties which made no special reference to the Colonies and treaties which were binding on the Australian Colonies because they had expressly adhered to them. It may, however, be convenient to examine the two classes of treaties separately.

9. Treaties made binding on His Majesty's subjects and His Majesty's possessions in general terms cannot be regarded as having been affected by federation, inasmuch as they were not in any way conditioned by any particular organisation of His Majesty's subjects or by any particular grouping of His Majesty's



possessions. If, however, federation has placed the people of Australia outside the scope of such of these treaties as were entered into before the establishment of the Commonwealth, then no logical distinction, it would appear, can be drawn between engagements which impose obligations on His Majesty's possessions or subjects in general terms and engagements which confer benefits on His Majesty's possessions or subjects in general terms. But His Majesty's Government have consistently assumed that such benefits automatically enured to the people of the Commonwealth, and have indeed acted upon this assumption.

10. It may also be observed that two important treaties of this class, viz., the Belgian and German Treaties, which stood in the way of the grant of British preference by Canada in 1897, and which were denounced as the outcome of the Colonial Conference of that year, were, after the most exhaustive examination, both by the Imperial Government and by the Canadian Government of the question whether their provisions bound the Dominion of Canada, definitively accepted by the Canadian Government as so binding, notwithstanding that the British North America Act, which established the Dominion, had been passed since their conclusion; many of the treaties under the most-favoured-nation clauses of which various foreign Powers had to be given the same benefits as Belgium and Germany during the currency of the Belgian and German Treaties were also anterior to the Confederation of Canada.

11. If treaties which bound the Australian Colonies simply as parts of the British possessions, and to which those Colonies were not given the choice of adhering or not adhering, are binding on the Commonwealth, it would seem difficult to hold that treaties which were not binding on the Australian Colonies until their formal adherence has been sought and obtained do not bind the Commonwealth, but without attempting to argue from the one class of treaties to the other, His Majesty's Government are unable to accept Mr. Groom's view, that when a Colony adheres to a treaty, the treaty, so far as that Colony is concerned, is in substance a separate agreement between the foreign party to the treaty and the Colony, and is in form only a treaty within the Empire. It is submitted that no such distinction between form and substance can be drawn. The responsibility to the foreign Power for the fulfilment of the treaty by the Colony rests with the central authority of the Empire, the Sovereign, who accepted that responsibility when he notified to the foreign Power the adherence of the Colony to the treaty. That responsibility is not lessened by the fact that in the treaty the Sovereign declined to accept it until he had been expressly requested by his advisers in the Colony to do so. The responsibility of the Colony, on the other hand, is not to the foreign Power but to the Sovereign. The adherence of a Colony does unquestionably amount to a separate agreement for the application of the provisions of the treaty to that Colony, but so far as the Colony is concerned, the agreement is with the Sovereign and not the foreign Power. The responsibility which Her late Majesty Queen Victoria assumed towards the Emperor of Japan when the Protocol of 1897, providing for the adherence of Queensland to the Japanese Treaty, was signed was the same in character as that assumed by his present Majesty King Edward VII. when he ratified the Convention of 1906, which applied that treaty to Canada.

12. No distinction, therefore, it would appear, can be drawn between the two classes of treaties which is based on the manner in which they came to be binding on the Australian Colonies prior to federation.

13. It has been already pointed out that it would be difficult to establish by a parallel case the contention that federation has made it impossible to carry out the treaties binding on Australia before federation. It is, however, doubtful whether such a contention can be put forward in support of the view that the treaties were determined by federation. It may be that the Australian States are no longer able to give legislative effect to certain obligations, but the question is not whether it is possible for the States to carry out those obligations, but whether it is possible for the Crown to do so. Federation has clearly not made it impossible for the Crown in Australia to obtain the necessary legislative power to give effect to previous treaties which do not conflict with the provisions of the Constitution of the Commonwealth, and no case in which there is such a conflict has been brought to notice. While holding that all treaties determined on federation Mr. Groom remarks that there may be certain treaties adhered to by States, which may be recognised by the Commonwealth. Such recognition by itself would not, of course, involve the renewal of a determined treaty (an operation which would involve

negotiation between the Crown and the foreign country concerned), but the remark implies that it is still possible for the Crown in Australia, subject to the terms of the Constitution of the Commonwealth, to give effect to its treaty obligations in respect of the Australian Colonies. Some of those obligations were binding on all the Australian Colonies in common, and it cannot be supposed that when the people of Australia joined together in one Commonwealth under the Crown, they became unable to discharge their common obligations to the Crown, arising out of treaties previously binding on the Crown; and Mr. Groom, in dealing with treaties which were binding on the Australian Colonies as a result of special adherence, expressly places treaties to which one or some of those Colonies had adhered on the same footing as treaties to which all the Colonies had adhered.

14. It is clear that of all the changes in the political organisation of Australia which may have taken place in the interval between the conclusion of any treaty and the establishment of the Commonwealth none involved the determination of such treaty. The view that treaties binding on the Australian Colonies determined on federation therefore implies that the treaty obligations of the Crown in respect of the Australian Colonies were conditional, not on the continuance of the political system in force when they were accepted, but on Australia remaining unfederated. It is impossible, in the opinion of His Majesty's Government, to read such a condition into the obligations of the Crown, whether undertaken in respect of the British possessions in general terms, or in respect of a particular Colony mentioned *nominatim*; and it has already been observed that the Confederation of Canada has not affected the prior treaty obligations in respect of the Canadian provinces.

15. His Majesty's Government are not prepared to maintain that the Sovereign can relieve himself of treaty obligations in respect of certain of his possessions by assenting to an Act which provides for the federation of those possessions under his Crown. His Majesty's Government deny the right of any foreign Power to criticise or take exception to the municipal arrangements for the fulfilment of the international obligations of the Crown, but that principle cannot be upheld if the Crown is to plead that a change in municipal arrangements has determined those obligations. The Belgian and German Treaties were denounced in 1897 because they constituted a barrier against the internal arrangements of the British Empire, but if His Majesty's Government are to take up the position that treaty obligations in respect of certain Colonies are determined when those Colonies federate under the Crown, foreign Powers will be entitled in future negotiations, in order to guarantee the permanence of His Majesty's obligations, to ask His Majesty's Government to stipulate that during the currency of the proposed treaty the internal arrangements of the Empire shall not be altered by the federation of any parts of His Majesty's possessions to which the treaty is to be applied.

16. In these circumstances, His Majesty's Government propose to inform the Japanese Government that the Treaty of 1894 is binding on the Commonwealth in respect of Queensland, and they trust that your Ministers, bearing in mind that the treaty can be determined in respect of Queensland by the giving of twelve months' notice, will concur in this proposal and in the principles on which it is based.

17. Apart from considerations of principle, your Ministers will appreciate the difficulty of returning any answer to the Japanese Government other than that proposed in view of the fact that goods exported to Japan from Queensland have, since federation, continued to be admitted to the commercial benefits of the treaty.

I have, &c.,  
ELGIN.

1243

No. 89.

AUSTRALIA.

COLONIAL OFFICE, to FOREIGN OFFICE.

SIR,

Downing Street, 23 January, 1908.

I AM directed by the Earl of Elgin to acknowledge the receipt of your letter of the 10th instant,\* and to enclose, for the information of Sir E. Grey, copy of the despatch† which has now been addressed to the Governor-General of the Commonwealth of Australia on the subject of the present position of Queensland under the Anglo-Japanese Treaty of 1894.

\* No. 85.

† No. 88.



2. It will be noticed that the alterations suggested in your letter were embodied in the despatch, with one exception, that of the substitution of the word "commorant" for "domiciled." Sir E. Grey's views in this respect have, however, been met by the substitution of the phrase "the people of the Commonwealth" for the phrase originally employed "the Commonwealth and His Majesty's subjects domiciled therein."

3. The other points in which the despatch as sent differs from the draft enclosed in the letter from this Department of the 28th ultimo\* were settled informally with the Foreign Office.

I have, &c.,  
H. W. JUST.

1777

No. 90.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(No. 42.)

MY LORD,

Downing Street, 7 February, 1908.

I HAVE the honour to transmit to you, for the consideration of your Ministers, copy of a note† from the Italian Ambassador respecting the applicability of the Anglo-Italian Treaty of Commerce and Navigation, 1883, to the Australian Commonwealth.

2. In accordance with the views explained at length in my despatch, No. 14, of the 17th of January,‡ the Secretary of State for Foreign Affairs proposes to inform the Italian Government that the Treaty of 1883 now applies to the Government of the Commonwealth in respect of all the States except South Australia, and I shall be glad to learn that your Ministers concur in the proposed reply. If so, they will no doubt consider whether any modification is necessary in the Navigation Bill to meet the point raised by the Italian Government. A similar point arises with regard to the Anglo-French Declaration of 1889 as to the disposal of the proceeds of wreck, to which reference is made in the Board of Trade Memorandum enclosed in my despatch, No. 302, of the 29th of November.§

3. Sir E. Grey further proposes to inform the Italian Government that the Treaty of 1883 can only be extended to South Australia by a fresh agreement, and I have to request you to ascertain from your Ministers whether they would desire that negotiations should be entered into for the conclusion of such an agreement. It might perhaps be possible to obtain as the result of these negotiations power for the Commonwealth to withdraw from the Treaty of 1883 separately at a year's notice, as has been arranged in the case of the Convention with Greece.

I have, &c.,  
ELGIN.

8985

No. 91.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL AND GOVERNORS.

(Canada. No. 157.)

(Transvaal. No. 75.)

(Cape. No. 51.)

(Orange River Colony. No. 34.)

MY LORD,

SIR,

Downing Street, 25 March, 1908.

I HAVE the honour to transmit to Your Excellency, to be laid before your Ministers, copies of an Agreement|| additional to the Commercial Convention between the United Kingdom and Egypt of the 29th of October, 1889, which has

\* No. 85. † Enclosure in No. 87. ‡ No. 88. § Page 6 of [Cd. 3567.] ¶ [Cd. 3874].

been concluded in pursuance of the policy indicated in the eleventh resolution of the Colonial Conference of 1907.

2. It will be seen that under this Agreement any Colony may retire separately from the Convention of 1889, and further, that those Colonies which did not adhere to the Convention, or which have since become parts of the Empire, now have an opportunity of adhering, if they so desire, within one year from the date of signature of the Agreement.

3. I shall be glad to learn in due course whether your Ministers propose that [Canada][the Cape of Good Hope][the Transvaal][the Orange River Colony] should now adhere to the Convention, and that its adherence should be notified.

I have, &c.,  
ELGIN.

10775

No. 92.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[See No. 96.]

(No. 103.)

MY LORD,

Downing Street, 27 March, 1908.

I HAVE the honour to transmit to Your Excellency, to be laid before your Ministers, copies of an Agreement\* additional to the Commercial Convention between the United Kingdom and Egypt of the 29th of October, 1889, which has been concluded in pursuance of the policy indicated in the eleventh resolution of the Colonial Conference of 1907 to enable any Colony to retire on notice separately from that Convention.

2. At the same time the opportunity has been taken to give those Colonies which did not adhere to the Convention of 1889, or which have since become parts of the Empire, an opportunity of adhering now if they so desire.

3. Of the six Australian States, only Tasmania and Queensland adhered to the Convention, and in that case the effect of the wording of the first article of the agreement would appear, if construed strictly, to annul their former adherence, and to render a new adherence necessary. I have, therefore, obtained an assurance from the Egyptian Government that the Treaty of 1889 shall be regarded as still applicable to the Commonwealth in respect of these States unless and until notice of termination of adherence is given in the ordinary manner.

4. In considering the question of the adherence of the Commonwealth as a whole, I would ask your Ministers to bear in mind the view expressed in my despatch, No. 14, of the 17th of January last.†

I have, &c.,  
ELGIN.

10775

No. 93.

THE SECRETARY OF STATE to THE GOVERNORS.

(Natal. No. 43.)

(Newfoundland. No. 50.)

(New Zealand. No. 49.)

SIR,

MY LORD,

Downing Street, 27 March, 1908.

I HAVE the honour to transmit to you, to be laid before your Ministers, copies of an Agreement\* additional to the Commercial Convention between the United Kingdom and Egypt of the 29th of October, 1889, which has been concluded in pursuance of the policy indicated in the eleventh resolution of the Colonial Conference of 1907, to enable any Colony to retire on notice separately from that Convention.

\* [Cd. 3874.]

† No. 88.



2. I am advised that the effect of the wording of the first article of the Agreement might be held, strictly speaking, to deprive those Colonies which adhered to the Convention of 1889 of the benefits of that Convention. I have accordingly obtained an assurance from the Egyptian Government that the adherence of [Natal] [Newfoundland] [New Zealand] to the original Convention shall be considered to be in force unless and until your Government decide to give notice of withdrawal in the manner provided in the new Agreement.

I have, &c.,  
ELGIN.

13743

No. 94.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 18 April, 1908.)

[Copy to Foreign Office, 28 April, 1908. L.F.]

[Answered by No. 95.]

(No. 75.)

Commonwealth of Australia,

My LORD, Governor-General's Office, Melbourne, 17 March, 1908.

REFERRING to your Lordship's despatch, No. 14, dated 17th January last,\* relative to the Anglo-Japanese Treaty of 1894, I have the honour to enclose, herewith, a copy of a despatch which has been addressed to me by my Prime Minister, and which, I think, will be found to deal with the case in its present position so far as the Commonwealth Government is concerned.

I have, &c.,  
NORTHCOTE,  
Governor-General.

Enclosure in No. 94.

(P.M. 8/709.)

Commonwealth of Australia, Prime Minister,  
Melbourne, 16 March, 1908.

My LORD,

WITH reference to the Secretary of State for the Colonies' despatch of the 17th January, No. 14, relative to the Anglo-Japanese Treaty of 1894, I have the honour to invite Your Excellency to be so good as to inform Lord Elgin that the views therein expressed have received careful consideration.

2. The Government, while not concurring with the opinion cited, recognise that the question involved is one of much complexity, and consider that it can best be disposed of by giving notice of termination at the expiry of twelve months from the earliest date possible.

3. This course becomes necessary because of the differentiation between the States which the acquiescence by the Federal Government in the continuance of an arrangement repugnant to the Constitution of the Commonwealth would involve, since its special benefits are secured to one State while its obligations are shared by all others.

4. The Government recognises the very friendly manner in which the Japanese Government have hitherto dealt with the question, and presume that they will continue during the remaining term of the existence of the treaty to refrain, as they have done since the passing of the Immigration Restriction Act, 1901, from endeavouring to secure the admission of Japanese labourers to Queensland in accordance with the terms of the agreement with Queensland of 1900.

5. So far as Ministers are aware there is no reason to anticipate any action of this nature, but the Government desire to safeguard themselves from it being supposed that the recognition of the treaty, which may be implied from the request for its termination, admits any right on the part of the Japanese Government to

\* No. 88.

have the provisions of the Immigration Restriction Act waived in favour of their nationals.

I have, &c.,  
ALFRED DEAKIN.

Governor-General, His Excellency  
The Right Honourable Lord Northcote,  
G.C.M.G., G.C.I.E., C.B.,  
&c., &c., &c.

13743

No. 95.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Sent 3 p.m., 25 April, 1908.)

TELEGRAM.

[Answered by No. 98.]

Your despatch, No. 75, 17th March.\* Your Ministers seem to have overlooked fact that in Hopetoun's telegram, 31st January, 1902,† it was reported that Japanese Government regarded Queensland understanding as abrogated. His Majesty's Government, therefore, propose in giving twelve months' notice of expiry of Treaty not to take any notice of point raised in paragraphs 4 and 5 of enclosure to your despatch. Do your Ministers agree?

I presume your Ministers have informed Queensland Government of their decision. If not, I hope they will do so at once, as I am most anxious to avoid even appearance of discourtesy to State Government, which will, I imagine, be ready to concur with your Ministers in adopting a policy deemed by them expedient in the interest of Australia as a whole.—CREWE.

18752

No. 96.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 25 May, 1908.)

[Answered by No. 102.]

(No. 112.)

My LORD, Governor-General's Office, Melbourne, 16 April, 1908.

I HAVE the honour to transmit, herewith, a copy of a memorandum by the Commonwealth Comptroller-General of Customs, relative to the question of the recognition of treaties to which the whole or a portion of the Australian States are parties.

2. I am advised by my Prime Minister that Ministers would be pleased if twelve months' notice can be given of the desire to terminate the adherence of any Australian States which may be affected by the following treaties:—

Greece	...	...	...	...	1886
Austria	...	...	...	...	1868
Bulgaria	...	...	...	...	1897
Egypt	...	...	...	...	1889
France	...	...	...	...	1889
Honduras	...	...	...	...	1887
Italy	...	...	...	...	1883
Mexico	...	...	...	...	1888
Muscat	...	...	...	...	1891
Paraguay	...	...	...	...	1884

\* No. 94.

† 4467 in Dominions No. 3.



Roumania	...	...	...	1892 and 1893
Salvador	...	...	...	1862
Servia	...	...	...	1893

3. The desire of the Commonwealth Government to withdraw the adherence of Queensland to the Japanese Treaty has already been notified to Your Lordship—*vide* my despatch, No. 75, dated 17th March, 1908.\*

I have, &c.,  
NORTHCOTE,  
Governor-General.

Enclosure in No. 96.

The Honourable the Minister for  
Trade and Customs,

#### NAVIGATION BILL TREATIES.

In connection with the Navigation Bill it is pointed out that there are certain treaties with foreign countries to which the whole or a portion of the Australian States are parties.

In the Bill, Clause 414 provides that in cases where the provisions of the Act are inconsistent with the terms of any treaty concurred in by the Commonwealth, the Governor-General may by Proclamation suspend the operation of the Act so far as will enable the obligations under any treaty to be fulfilled.

This clause, however, would seem to refer to treaties only to which the Commonwealth is a party, and apparently does not cover treaties to which the States may have been parties (prior to Federation).

In the opinion of the Home Authorities the Commonwealth is, however, still bound by such treaties in regard to those States which were parties to them. If this opinion be correct, then our position in reference to the Navigation Bill is most embarrassing.

In the first place, taking a case where, say, only one State was a party, it would be manifestly highly inconvenient, to say the least, that in regard to one State of the Commonwealth a foreign nation should have certain privileges which were not accorded in other States. As by our Constitution free interchange between States is assured, one State granting these privileges would act as a door into the whole of the Commonwealth.

In other cases where the whole of the States were parties, the position would be none the less very undesirable. Some of the conditions of these treaties are entirely opposed to the policy and terms of the Bill, inasmuch as they do not admit of any discrimination between the parties in regard to trade and shipping, whereas the Bill contemplated a distinction in some important respects between foreign and Australian shipping, &c.

Under these circumstances it is suggested, for the consideration of the Minister, whether it would not be advisable to move the Secretary of State to cause [?] to be taken] such steps as may be practicable in each case to procure a modification of, or the consent of the respective countries to the withdrawal of Australia from, such treaties, thus giving the Commonwealth, through the Imperial Government, a free hand to make such arrangements with foreign countries as may suit our present policy.

H. N. P. WOLLASTON.

2 April, 1908.

Approved:

AUSTIN CHAPMAN,  
Minister for Trade and Customs.  
4 April, 1908.

\* No. 94.

18752

No. 97.

#### AUSTRALIA.

COLONIAL OFFICE to FOREIGN OFFICE and BOARD OF TRADE.

[Answered by No. 101.]

SIR,

Downing Street, 3 June, 1908.

I AM directed by the Earl of Crewe to transmit to you, to be laid before Secretary Sir E. Grey, copy of a despatch\* from the Governor-General of the Commonwealth of Australia, requesting that steps may be taken to intimate the withdrawal of the Commonwealth from certain Commercial Treaties, together with copy of the reply which, with Sir E. Grey's concurrence, Lord Crewe proposes to return to His Excellency's despatch.

I am to add that a similar letter has been addressed to the Board of Trade Foreign Office.

I am, &c.,  
C. P. LUCAS.

Enclosure in No. 97.

The SECRETARY OF STATE to the GOVERNOR-GENERAL.

#### DRAFT TELEGRAM.

Your despatch, 112, 16th April, and telegram, 22nd May. I may no doubt assume that, in exercising the federal control over Treaty arrangements, your Ministers have as a matter of courtesy communicated to State Governments intention to withdraw from Treaties concerned.

Notice of termination of the rights and obligations of Australia in respect of the Treaties enumerated can be given of right only in the cases of Paraguay, Greece, Egypt, Honduras. The Treaty with Salvador has just been denounced by that Government. In the other cases special conventions will require to be made, and while His Majesty's Government will take any steps which may be possible to secure the withdrawal of Australia, your Ministers will understand that no promise can be made that these efforts will be successful since the foreign Powers concerned stand to gain nothing by agreement. His Majesty's Government trust, therefore, that the Navigation Bill will be so altered as to secure all existing Treaty rights, as it would create great difficulty for His Majesty's Government to be asked to confirm by Order in Council a Bill which did not secure all Treaty rights. Fortunately, the real extent of these rights is very small, as few of the countries concerned have considerable shipping trading with Australia.

The Bulgarian Treaty of 1897 is superseded by that of 1905 and to the latter Australia has not become party.

In the case, *e.g.*, of Mexico, the Treaty covers matters other than commerce and navigation. Is it desired in these cases to withdraw from the whole Treaty or merely from clauses affecting commerce and navigation?

Please send full expression of Ministers' view on points raised in this telegram, as His Majesty's Government are most anxious to help your Government, but cannot well act without further information. Also remind Ministers of my predecessor's despatch, No. 1, of 3rd January, to which no reference is made in your despatch under reference.

\* No. 96.



No. 98.

## AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 8.55 a.m., 17 June, 1908.)

TELEGRAM.

Your telegram, 25th April,\* Japanese Treaty. My Ministers agree to course proposed. Government of Queensland concur in action taken by Commonwealth.—NORTHCOTE.

15190

No. 99.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

(Canada. No. 351.)

(Cape of Good Hope. No. 112.)

(Commonwealth of Australia. No. 201.)

(Natal. No. 99.)

(New Zealand. No. 111.)

(Transvaal. No. 154.)

(Newfoundland. No. 87.)

(Orange River Colony. No. 71.)

MY LORD,

SIR,

Downing Street, 18 June, 1908.

WITH reference to my predecessor's despatch, No. [157], [103], [49], [50], [51], [43], [75], [34], of the 27th of March [25th of March],† I have the honour to transmit to Your Excellency [you], for the information of your Ministers, copies of a Declaration‡ between the Governments of the United Kingdom and of Paraguay, dated the 14th of March, giving to His Majesty's Dominions the right to withdraw separately at twelve months' notice from the Treaty of Commerce of 1894.

I have, &c.,  
CREWE.

21896

No. 100.

AUSTRALIA: QUEENSLAND.

COLONIAL OFFICE to FOREIGN OFFICE.

[Answered by 31515 in Dominions No. 7.]

SIR,

Downing Street, 19 June, 1908.

WITH reference to the letter from this Office of the 28th of April,§ I am directed by the Earl of Crewe to transmit to you, to be laid before Secretary Sir E. Grey, copy of further correspondence|| with the Governor-General of the Commonwealth of Australia on the subject of the desire of his Government to give notice of the termination of the adherence of Queensland to the Anglo-Japanese Treaty of 1894.

2. Lord Crewe will be glad if formal notice can now be given to the Japanese Government of the determination of the adherence of Queensland to the Treaty, and his Lordship will be glad to be informed as soon as this step has been taken.

I am, &c.,  
C. P. LUCAS.

22165

No. 101.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 19 June, 1908.)

[Answered by L.F. transmitting copy of No. 102.]

SIR,

Foreign Office, 19 June, 1908.

I AM directed by Secretary Sir E. Grey to state that he has carefully considered, in consultation with the Board of Trade, your letter of the 3rd instant,

\* No. 95. † No. 91 or 92. ‡ [Cd. 4134]. § L.F. transmitting copy of No. 94. || Nos. 95 and 98.

No. 18752/1908,\* relative to the desire of the Australian Commonwealth to withdraw from certain Commercial treaties between His Majesty's Government and foreign Powers.

I am to point out that His Majesty's Government are already taking steps to obtain amendments in this sense of the existing conventions to which one or more of the self-governing Dominions are parties, commencing with the smaller foreign States which are not materially interested in the question of the Australian coasting trade, and are, therefore, not likely to oppose such amendments. It is hoped that the precedents which may be formed by obtaining the assent of these Powers to the amendments will have an appreciable effect in inducing the Austro-Hungarian, Italian, and Mexican Governments, from which some opposition may be expected, eventually to consent to a similar arrangement.

It is to be observed that the arrangement between this country and France embodied in the Declaration of 1889 is concerned with the question of wrecks and salvage only, while those of 1892 and 1893 with Roumania are Conventions relating merely to Trade Marks and False Indications of Origin. The Government of the Commonwealth may possibly be under some misapprehension as to the nature of these arrangements. As regards the Anglo-Servian Commercial Treaty of 1893, and the Anglo-Bulgarian Commercial Convention of 1897, I am to point out that these agreements have been superseded by those of 1907 and 1905 respectively, to which neither the Commonwealth nor any Australian State has acceded.

In these circumstances I am to transmit to you herewith an amended draft telegram† which Sir E. Grey would suggest, if the Earl of Crewe concurs, might be addressed to the Governor-General of the Commonwealth in substitution of the one forwarded in your letter of the 3rd instant.\*

Sir E. Grey is informed that the Board of Trade concur in the contents of this letter.

I am, &c.,  
LOUIS MALLET.

22165

No. 102.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Sent 3.5 p.m., 30 June, 1908.)

TELEGRAM.

[Copy to Foreign Office and Board of Trade, 1 July, 1908. L.F.]

Your despatch, No. 112, 16th April,‡ and telegram of 22nd May.§ I may, no doubt, assume that in exercising the federal control over treaty arrangements, your Ministers have, as a matter of courtesy, communicated to State Governments intention to withdraw from treaties concerned.

Notice of termination of the rights and obligations of Australia in respect of the treaties enumerated can be given of right only in the cases of Paraguay, Greece, Egypt, and Honduras. The treaty with Salvador has just been denounced by that Government. The Anglo-Servian Treaty of 1893 has been superseded by that of 1907, and the Anglo-Bulgarian Treaty of 1897 by that of 1905, to neither of which is either the Commonwealth or any Australian State a party.

The arrangements of 1892 and 1893 with Roumania are merely Conventions relating to Trade Marks and False Indications of Origin. Does Commonwealth desire to withdraw from these arrangements on behalf of the individual States which have adhered to them?

In the other cases special conventions will require to be made. His Majesty's Government have already entered upon negotiations with some of the lesser Powers concerned, so that when their consent has been obtained this may serve as a useful precedent when the more important Powers, with whom greater difficulties are to be expected, are approached on the subject.

\* No. 97.

† See No. 102.

‡ No. 96.

§ 18341: not printed.



While, therefore, His Majesty's Government are taking steps to secure, as far as possible, the withdrawal of Australia in each case where it is necessary, your Ministers will understand that no promise can be made that these efforts will be successful since the foreign Powers concerned stand to gain nothing by agreement. His Majesty's Government trust, therefore, that the Navigation Bill will be so altered as to secure all existing Treaty rights, as it would create great difficulty for His Majesty's Government to be asked to confirm by Order in Council a Bill which omitted to do so. Fortunately the real extent of these rights is very small as few of the countries concerned have considerable shipping trading with Australia.

In the case, *e.g.*, of Mexico the Treaty covers matters other than commerce and navigation. Is it desired in these cases to withdraw from the whole Treaty or merely from clauses affecting commerce and navigation?

Please send full expression of the views of Ministers on points raised in this telegram, as His Majesty's Government are most anxious to help your Government, but cannot well act without further information. Also remind Ministers of my predecessor's despatch, No. 1, January 3rd,\* to which no reference is made in your despatch under reference.—CREWE.

## IX.

## (Resolution XIII.)

## Uniformity in Trade Marks and Patents.

26071

No. 103.

## COLONIAL OFFICE to BOARD OF TRADE.

[Answered by No. 104.]

SIR,

Downing Street, 11 December, 1907.

I AM directed by the Earl of Elgin to transmit to you, to be laid before the Board of Trade, the accompanying copy of the Resolution† on the subject of uniformity in Trade Marks and Patents which was unanimously agreed to by the Colonial Conference in May last.

2. I am to refer to the discussion which took place between the President of the Board of Trade and the Colonial Prime Ministers (which will be found on pp. 484-489 of Parliamentary Paper [Cd. 3523]) and to enquire whether the Board of Trade consider that it would be desirable to refer the matter to a Subsidiary Conference or to a Committee under the control of the Imperial Secretariat, or whether in the first place, further information should be obtained from the Dominions, in which case Lord Elgin would be glad to learn the nature of the information required.

I am, &amp;c.,

C. P. LUCAS.

9127

No. 104.

## BOARD OF TRADE to COLONIAL OFFICE.

(Received 14 March, 1908.)

[Answered by No. 105.]

Board of Trade (Finance and General Department),

7, Whitehall Gardens, London, S.W., 13 March, 1908.

SIR,

I AM directed by the Board of Trade to refer to your letter of the 11th December last (No. 26071/1907),‡ transmitting a copy of the resolution passed at the recent Colonial Conference upon the subject of uniformity in Trade Marks and Designs, and enquiring whether the Board consider that the matter should be referred to a Subsidiary Conference or to a Committee under the control of the

\* No. 97 in Australian No. 189.

† See Page ix. of [Cd. 3523].

‡ No. 103.

Imperial Secretariat, or whether in the first place further information should be obtained from the Dominions.

In reply, I am to state, for the information of Lord Elgin, that inasmuch as particulars of the Trade Marks Laws of the various Colonies are already available in a fairly complete form, the Board are of opinion that the questions which formed the subject of the resolution may properly be referred to a Committee constituted as suggested, without requiring further details of the laws in question.

I have, &amp;c.,

T. W. P. BLOMEFIELD.

9127

No. 105.

## COLONIAL OFFICE to BOARD OF TRADE.

Downing Street, 30 May, 1908.

SIR,

I AM directed by the Earl of Crewe to acknowledge the receipt of your letter of the 13th of March last\* on the subject of uniformity of Trade Marks and Patents.

With regard to the proposal to submit the matter to a Committee under the control of the Imperial Secretariat, I am to suggest, for the consideration of the Board of Trade, that, as a first step, the Patents Memorandum presented to the Colonial Conference (which will be found on pp. 507-520 of Parliamentary Paper [Cd. 3524]) should be brought up to date, and that a similar Memorandum as to Trade Marks should be prepared—a matter which Lord Crewe understands would involve only a short delay.

I am to add that the Secretary to the Imperial Conference has been in personal communication with the Controller of the Patent Office and understands that he will be ready to furnish these materials for the Committee.

I am, &amp;c.,

H. W. JUST.

## X.

## (Resolution XIV.)

## Uniformity in Trade Statistics.

26072

No. 106.

## THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

[Answered by Nos. 111, 113 and 117.]

(Canada.)

(Australia.)

(Newfoundland.)

(Cape.)

(Natal.)

(New Zealand.)

(Transvaal.)

(Miscellaneous.)

MY LORD,

Downing Street, 30 July, 1907.

SIR,

I HAVE the honour to request you to call the attention of your Ministers to the resolution passed at the Colonial Conference "that it is desirable, so far as circumstances permit, to secure greater uniformity in the trade statistics of the Empire, and that the note prepared on this subject by the Imperial Government be commended to the consideration of the various Governments represented at this Conference."

\* No. 104.



The note referred to is printed at page 521 of the "Papers laid before the Colonial Conference, 1907" [Cd. 3524], copies of which have already been forwarded; and on behalf of His Majesty's Government I have the honour to commend the memorandum to the consideration of your Government, as contemplated by the resolution of the Conference.

I have, &c.,  
ELGIN.

26072

No. 107.

ORANGE RIVER COLONY.

THE SECRETARY OF STATE to THE GOVERNOR.

[Answered by Nos. 109 and 119.]

(Miscellaneous.)

SIR,

Downing Street, 30 July, 1907.

I HAVE the honour to request you to call the attention of your Ministers to the resolution passed at the Colonial Conference "that it is desirable, so far as circumstances permit, to secure greater uniformity in the trade statistics of the Empire, and that the note prepared on this subject by the Imperial Government be commended to the consideration of the various Governments represented at this Conference," and to commend to the consideration of your Government the memorandum on this subject which is printed at page 521 of the "Papers laid before the Colonial Conference, 1907" [Cd. 3524], copies of which have already been forwarded for their information.

I have, &c.,  
ELGIN.

26072

No. 108.

COLONIAL OFFICE to BOARD OF TRADE.

[Answered by 34045: not printed.]

SIR,

Downing Street, 30 July, 1907.

WITH reference to your letter of the 8th of April last\* respecting certain subjects which were proposed for discussion at the Colonial Conference, I am directed by the Earl of Elgin to state, for the information of the Board of Trade, that his Lordship has called the attention of the Governments of the Colonies represented at the Conference, and also that of the Orange River Colony, to the resolution of the Conference as to the desirability of securing greater uniformity in trade statistics, and has commended to their consideration, in accordance with the terms of the resolution, the note prepared by the Board of Trade on the subject which is printed at page 521 of the "Papers laid before the Colonial Conference" [Cd. 3524].

I am, &c.,  
H. W. JUST.

35436

No. 109.

ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 5th October, 1907.)

(No. 51.)

Governor's Office, Bloemfontein.

MY LORD,

Orange River Colony, 16 September, 1907.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch, Miscellaneous, of the 30th July last,† inviting attention to a resolution passed at the Colonial Conference advocating the introduction of greater uniformity in the preparation of the trade statistics of the Empire.

\* 12468: not printed.

† No. 107.

2. As your Lordship is no doubt aware, the Inter-Colonial Statistical Bureau at Cape Town compiles at the present moment all the statistics required by the several Governments in South Africa, and it is understood that when this Bureau was first started the form of the various returns was adopted with due regard to the requirements of the Board of Trade in London.

3. In view, however, of the fact that the Natal Government has given notice to withdraw from the existing Inter-Colonial Bureau, it is probable that the several South African Governments will have to revert to the old system of separate compilation of statistics as affecting each Colony individually. Your Lordship's despatch of the 30th July,\* now under acknowledgment, will therefore be brought to the attention of the new Government of this Colony for consideration in case it is found necessary to arrange for the independent compilation of its trade statistics.

I have, &c.,  
HAMILTON GOOLD-ADAMS,  
Governor.

34045A

No. 110.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL AND GOVERNORS.

[Copy to Board of Trade, 6th November, 1907. L.F.]

[Answered by Nos. 113, 114, 117 and 119.]

- |                           |                    |
|---------------------------|--------------------|
| (1. Australia.)           | } (Miscellaneous.) |
| (2. Cape.)                |                    |
| (3. Natal.)               |                    |
| (4. Transvaal.)           |                    |
| (5. Orange River Colony.) |                    |

MY LORD.

Downing Street, 16 October, 1907.

SIR,

I HAVE the honour to refer your Lordship to my despatch, "Miscellaneous," of the 30th of July last,† with regard to the resolution of the Colonial Conference as to the desirability of securing greater uniformity in the trade statistics of the Empire, and to request you to inform your Ministers that the Board of Trade have represented that it would be of considerable advantage for statistical purposes if separate particulars could for the future be given in the official trade reports of (1) the Commonwealth of Australia (Others) the various Colonies comprising the South African Customs Union of the quantities and values of goods imported at preferential rates of duty. This course is already being adopted by the Governments of Canada and New Zealand. [Omit to Australia.—I am addressing a similar despatch to the other South African Governments.]

I have, &c.,  
ELGIN.

41169

No. 111.

NATAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 23rd November, 1907.)

[Copy to Board of Trade, 5th December, 1907. L.F.]

(No. 198.)

Government House, Pietermaritzburg.

MY LORD.

Natal, 28th October, 1907.

WITH reference to your Lordship's Miscellaneous despatch of the 30th July,

\* No. 107.

† No. 106 or 107.



1907,\* on the subject of securing greater uniformity in the trade statistics of the Empire, I have the honour to inform your Lordship that so far as the South African Colonies are concerned there is already uniformity in these statistics; and to transmit, for the information of the Board of Trade, an extract from a minute, dated the 17th September, by the Natal Collector of Customs, which deals with the four suggestions contained in the note printed at page 521 of the "Papers laid before the Colonial Conference, 1907" [Cd. 3524].

2. The suggestion in (iv.) of paragraph 5 of that note, to classify the imports and exports so as to distinguish trade with the United Kingdom, British Possessions, and Foreign Countries, could probably be adopted without much difficulty, but as the trade statistics of the South African Colonies, parties to the Customs Union Convention, are compiled by the Inter-Colonial Bureau in Cape Town, it is proposed to refer the note with regard to this and other points for consideration at the meeting of the Bureau to be held in January next.

I have, &c.,  
M. NATHAN.

Enclosure in No. 111.  
EXTRACT FROM MINUTE.

With regard to:—

(1) The trade returns are already issued for the period suggested; the present statistical year is the calendar year.

(2) Tables showing "Countries of origin and ultimate destination of goods" are already published.

(3) The present classification is practically identical with that adopted in the United Kingdom, fairly full details being already supplied as regards "textiles" and "metals," the two classes of goods specially referred to in the note. It is true that with the exception of "Articles of food and drink," which are separately grouped, an alphabetical arrangement is followed in the main tables, as this is found to be of great assistance to merchants and others searching the returns for particular articles, but, in addition to these tables, others are provided, as regards imports, in which a system of grouping very similar to that advocated by the Board of Trade has been introduced.

(4) The classification of imported articles by groups, referred to under (3), is, as at present followed, as under:

1. Animals, living.
2. Articles of food and drink.
3. Raw materials and articles mainly unmanufactured.
4. Manufactured articles.
5. Articles imported oversea through the post.

Except that "Animals, living," form a separate group; that "Tobacco" is not included with "Articles of food and drink," but shown under "Manufactured or unmanufactured articles," as the case may be; and that "Articles through the Post" are distinguished from "Miscellaneous articles," the present classification is, as will be seen—in the monthly and twelve-monthly returns—in agreement with the one suggested in the note, while that followed in our Annual Blue Book is even more elaborate.

This system has not, however, except as regards "Articles of food and drink," been applied to exports. The export trade of South Africa is practically confined to raw produce and unmanufactured articles, and the elaborate classification desirable in the case of imports has been thought to be hardly necessary for exports in their present stage of development.

W. L. HOWE,  
For Collector of Customs.

17th September, 1907.

42866

No. 112.

SOUTH AFRICA.

THE HIGH COMMISSIONER to THE SECRETARY OF STATE.

(Received 7th December, 1907.)

(No. 977.)

High Commissioner's Office, Johannesburg,  
18th November, 1907.

MY LORD,

I HAVE the honour to enclose, for your information, a copy of the under-mentioned documents on the subject of the resolution passed by the Imperial Conference urging the desirability of securing greater uniformity in the trade statistics of the Empire.

I have, &c.,  
SELBORNE,  
High Commissioner.

SCHEDULE OF ENCLOSURES.

1. Despatch, No. 288, from Governor, Natal. November 7, 1907.
2. Despatch, No. 37/74, to Governor, Natal. November 14, 1907.

Enclosure 1 in No. 112.

(Natal. No. 288.)

Government House, Pietermaritzburg, Natal,  
7th November, 1907.

MY LORD,

I HAVE the honour to enclose a copy of correspondence with the Secretary of State on the subject of securing greater uniformity in the trade statistics of the Empire, and with reference to the second paragraph of my despatch to Lord Elgin, No. 198, dated the 28th ultimo, to request your Lordship to be good enough to refer the Note printed at page 521 of the "Papers laid before the Colonial Conference, 1907" (Cd. 3524) to the Board of Control for consideration at the meeting of the Inter-Colonial Statistical Bureau to be held in January next.

I have, &c.,  
M. NATHAN.

His Excellency the Right Honourable  
The Earl of Selborne, P.C., G.C.M.G.,  
&c., &c., &c.,  
High Commissioner for South Africa.

Enclosure 2 in No. 112.

(No. 37/74.)

High Commissioner's Office, Johannesburg,  
14th November, 1907.

SIR,

I HAVE the honour to acknowledge the receipt of your despatch, No. 288, of November 7th, on the subject of the resolution passed at the Colonial Conference in London to the effect "that it is desirable, so far as circumstances permit, to secure greater uniformity in the trade statistics of the Empire," and to inform you that I have forwarded a copy of your despatch and its enclosures to the other contributing parties to the South African Customs Statistical Bureau for their consideration.

2. I have also caused a letter to be addressed to the Principal of the Bureau on the subject, and enclose a copy of it.

I have, &c.,  
SELBORNE,  
High Commissioner.

His Excellency  
Sir Matthew Nathan, G.C.M.G.,  
&c., &c., &c.,  
Governor of Natal.



(No. 37/74.)

High-Commissioner's Office, Johannesburg,  
14th November, 1907.

SIR,

I AM directed by the High Commissioner to transmit to you a copy of a despatch which His Excellency has received from the Governor of Natal covering copies of correspondence with the Secretary of State respecting the resolution passed at the Colonial Conference in London to the effect "that it is desirable so far as circumstances permit, to secure greater uniformity in the trade statistics of the Empire," and requesting that the Note printed at page 521 of the "Papers laid before the Colonial Conference, 1907" [Cd. 3524] may be referred to the Board of Control, Inter-Colonial Statistical Bureau, for consideration at its next meeting to be held in January next.

2. A copy of Sir M. Nathan's despatch and its enclosures has been forwarded to the contributing parties to the South African Statistical Bureau for their consideration.

I have, &amp;c.,

W. G. BENTINCK,  
For Imperial Secretary.

The Principal

South African Statistical Bureau,  
Cape Town.

44548

No. 113.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 21st December, 1907.)

[Copy to Board of Trade, 8th January, 1908. L.F. See No. 115.]

[Answered by No. 116.]

(No. 348.)

MY LORD,

Government House, Cape Town, 29th November, 1907.

I HAVE the honour to transmit to your Lordship, with reference to your despatches, Miscellaneous, of 30th July and 16th October, 1907,\* a copy of a minute from Ministers on the subject of the desirability of securing greater uniformity in the trade statistics of the Empire.

I have, &amp;c.,

WALTER HELY-HUTCHINSON.

Enclosure in No. 113.

MINISTERS to GOVERNOR.

(Minute No. 1/666.)

Prime Minister's Office, Cape Town, 29th November, 1907.

With reference to His Excellency the Governor's minutes, No. 600, of the 20th August last, and No. 816, of the 5th instant, transmitting copies of despatches from the Right Honourable the Secretary of State for the Colonies in regard to the desirability of securing greater uniformity in the trade statistics of the Empire, Ministers have the honour to state that in respect to the various points mentioned in the note prepared by the Board of Trade the published returns of the South African Colonies vary very slightly from the proposals made.

Taking the recommendations in their order, the following remarks will show how little difference exists:—

(1) Whether it would be possible for the Colonial Trade Returns to be issued for a common statistical year, say, the calendar year.

This is the present practice of all the South African Colonies, though the fixed [? financial] year does not coincide therewith—certain Colonies having the 30th June as the last day of the year, while one territory has the year terminating on the 31st March.

\* Nos. 106 and 110.

(2) Whether arrangements could be made whereby the countries of consignment of imports and of ultimate destination of exports could be uniformly shown, in addition to, or in the place of, the countries whence imported, and to which exported.

Prior to the establishment of the Statistical Bureau, the Cape Government Returns of Import showed the "port of shipment," while the Natal Returns showed the "country of origin"; on the formation of the bureau the practice recommended by the Board of Trade of distinguishing by countries of origin was adopted, and the figures now disclose the quantity of goods, the produce or manufacture of each country of the civilised world which finds its way into British South Africa, either by Colonies or as a congeries of States; the increased cost of recording by ports of shipment and countries of origin has rendered the adoption of both sets of figures outside the bounds of practicability for the present. With regard to the exports, the practice at present obtaining of declaring the destination of the carrying vessel rather than the actual destination of the goods has been frequently under consideration, but hitherto such an alteration in methods has met with the strong disapproval of the mercantile community, though for what reason is not readily apparent.

(3) Whether it is possible, having regard to the exigencies of the various Customs Tariffs, to revise or amplify the classification of articles—particularly textiles and metals, and without entailing much additional cost or labour in compilation—on a more uniform plan? And

(4) Whether the suggestion to classify the imports and exports of articles by groups (*e.g.*, food stuffs, raw materials, and manufactured articles), distinguishing trade with the United Kingdom, British Possessions, and foreign countries, could, without much difficulty, be adopted?

These two latter suggestions may be replied to as one, inasmuch as reasons for and difficulties in connection with both of them apply equally; under the arrangements in force before the present Statistical Bureau was established, the alphabetical classification was always in use in the South African Colonies, and it was felt that an entire departure from that principle would not be generally acceptable, though it was recognised that as far as possible large categories were to be grouped together, and grand totals carried out, and this has been consistently done, as, for instance, in the grouping and totalling of animals—living, articles of food and drink, machinery, various textiles, such as cotton and woollen, &c.

Further, in the condensed Monthly Returns all imports are recorded under five distinct headings, *i.e.*, (1) animals, living; (2) articles of food and drink; (3) raw materials and articles mainly unmanufactured; (4) manufactured articles; and (5) articles imported oversea through the post.

In the Annual Returns there will be found included summary tables (Volume III., Nos. 9 and 10), with an extended classification by groups and sub-groups.

All the classifications above alluded to are governed very largely by the tariff items, and for the present it is not clear how it could be otherwise; a group classification satisfactory to all portions of the Empire could only be decided after careful consideration of the various tariffs of the United Kingdom and Colonies and dependant territories, and this, it is felt, could only be arrived at after conference of statisticians representative of each unit in the Empire; it might, therefore, be most advantageous for such a meeting to be arranged by the Board of Trade.

The Note now under remark was prepared on the 1905 published figures, and as these were previous to the publication of the Customs Statistical Bureau Returns, it is felt that the criticism contained therein does not apply so fully to existing arrangements.

In regard to the suggestion that separate particulars should, for the future, be given in the official trade reports of the South African Colonies of the quantities and values of goods imported at preferential rates of duty, Ministers have the honour to state that the loss incurred by the granting of preference to the United Kingdom and reciprocating British Colonies will be shown in the future Annual Returns of the Statistical Bureau, while for all practical purposes the general return of imports into South Africa from portions of the British Empire entitled to preference, taken in conjunction with the preference as laid down in the South African Customs Union Tariff will provide the particulars of the quantities and value of goods imported at preferential rates of duty as suggested.

L. S. JAMESON.



45250

No. 114.

## SOUTH AFRICA.

THE HIGH COMMISSIONER to THE SECRETARY OF STATE.

(Received 28th December, 1907.)

(No. 1078.)

MY LORD,

High Commissioner's Office, Johannesburg,  
9th December, 1907.

WITH reference to my despatch, No. 1010, of November 25th,\* I have the honour to enclose, for your information, a copy of the undermentioned documents on the subject of the desirability of securing so far as circumstances permit, greater uniformity in the trade statistics of the Empire.

I have, &c.,  
SELBORNE,  
High Commissioner.

## SCHEDULE OF ENCLOSURES.

1. Despatch, No. 62/16, from Governor, Transvaal. November 26, 1907.
2. Despatch, No. 39/56, to Governor, Transvaal. December 9, 1907.

Enclosure 1 in No. 114.

(P.S. No. 62/16/1907.)

MY LORD,

Governor's Office, Johannesburg, 26th November, 1907.

WITH reference to your despatch of the 14th of November, No. 37/74, on the subject of the resolution passed at the Colonial Conference in London to the effect "that it is desirable, so far as circumstances permit, to secure greater uniformity in the trade statistics of the Empire," I have the honour to inform you that Transvaal Ministers note that this question will be considered at the next meeting of the Board of Control of the South African Customs Statistical Bureau.

2. In this connection, Ministers refer to Lord Elgin's despatch of the 16th October last, relative to preferential Customs statistics of the South African Colonies, and suggest that this matter also be submitted for the consideration of the Board of Control. I enclose a copy of the despatch† referred to.

I have, &c.,  
SELBORNE  
Governor.

His Excellency

The High Commissioner for South Africa.

Enclosure 2 in No. 114.

(No. 39/56.)

MY LORD,

High Commissioner's Office, Johannesburg,  
9th December, 1907.

I HAVE the honour to acknowledge the receipt of your despatch, No. 62/16, of November 26th, on the subject of the resolution passed at the Colonial Conference in London to the effect "that it is desirable, so far as circumstances permit, to secure greater uniformity in the trade statistics of the Empire," and to inform you

\* 43729 : not printed.

† No. 110.

that I have forwarded a copy of your despatch and its enclosures to the other contributing parties to the South African Customs Statistical Bureau for their consideration.

No. 39/56 : 9th December, 1907.

2. I have also caused a letter to be addressed to the Principal of the Bureau on the subject, and enclose a copy of it.

I have, &c.,  
SELBORNE,  
High Commissioner.

His Excellency

The Governor of the Transvaal.

(No. 39/56.)

High Commissioner's Office, Johannesburg,  
9th December, 1907.

SIR,

WITH reference to my letter, No. 37/74, of November 14th, relative to the desirability of securing, so far as circumstances permit, greater uniformity in the trades statistics of the Empire, I am directed by the High Commissioner to transmit to you a copy of a despatch, with enclosure, from the Governor of the Transvaal conveying a request by his Ministers that the subject matter of the Secretary of State's despatch of October 16th may also be referred for consideration at the next meeting of the Board of Control.

2. A copy of the Transvaal despatch and its enclosure has been forwarded to the contributing parties to the Customs Statistical Bureau for their consideration.

I have, &c.,  
W. G. BENTINCK,  
For Imperial Secretary.

The Principal

Customs Statistical Bureau,  
Cape Town.

4072

No. 115.

## CAPE OF GOOD HOPE.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 5th February, 1908.)

[Answered by L.F. transmitting copy of No. 116.]

Board of Trade (Commercial Department),

7, Whitehall Gardens, London, S.W., 4th February, 1908.

SIR,

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 8th ultimo (No. 44548),\* transmitting copy of a despatch, with enclosures, from the Governor of the Cape of Good Hope on the subject of the desirability of securing greater uniformity in the trade statistics of the Empire.

In reply, I am to state that the Board agree with the Cape Government that some of the points raised in the note laid before the Imperial Conference—which, so far as South Africa is concerned, was based on the returns published for 1905—do not now apply to the same extent as formerly, and they welcome the improvements which have been made in the trade returns published by the South African Customs Statistical Bureau since that date.

The Board also note that, in future returns, a statement will be included showing "the loss incurred by the granting of preference to the United Kingdom and Reciprocating Colonies."

The Cape Government further point out that the particulars of the quantities and values of goods imported at preferential rates can be ascertained from the general return of imports into South Africa taken in conjunction with the preference as laid down in the Customs Union Tariff, but the Board would still venture

\* L.F. transmitting copy No. 113.



the suggestion that the value of the South African Trade Returns for statistical purposes would be enhanced if it could be found possible to amplify the present returns by showing the quantities and values of goods imported from the various countries into British South Africa under both the *British Preferential* and *General Tariffs*. This, it may be stated, is already done in the trade returns issued by the Canadian and New Zealand Governments, and a specimen of the form used in the Canadian returns is enclosed herewith.

With regard to the view put forward by the Cape Government that a uniform classification of the imports and exports of articles by groups (*e.g.*, foodstuffs, raw materials, and manufactured articles) could only be satisfactorily arrived at after a careful consideration of the various tariffs of the United Kingdom, the Dominion Colonies, and British Possessions, I am to forward to you the enclosed statements (B)\* which have been extracted from Vol. I. of the "Annual Statement of Trade of the United Kingdom," showing the classification adopted in the import and export returns of this country, and to say that the Board would be glad, should Lord Elgin see no objection, if they could be transmitted to the Cape Government as an indication of their view as to the way in which the articles might be classified in the South African Trade Returns as far as possible.

The Board further desire me to say that the inclusion in the South African Trade Returns of a summary of the trade of each of the main groups of articles classified on the lines of this suggestion, and distinguishing the trade with the United Kingdom, British Possessions, and foreign countries would be of great utility for purposes of comparison with the returns of the mother country and eventually, it is hoped, with those of other portions of the Empire.

I have, &c.,

ARTHUR WILSON FOX.

Enclosure in No. 115.

FORM A.

General Statement (by Countries) of the Total Quantities and Values of Merchandise imported; also of the Quantities and Values of the same entered for Consumption and the Duties Collected thereon in the Dominion of Canada, during the Year ended 31st March, 1907.

[Extracted from the Canadian "Trade and Navigation Returns."]

Articles and Countries whence Imported.	Total Imports.		Entered for Home Consumption.								
			General Tariff.			Preferential Tariff.			Total.		
	Quantities.	Value.	Quantities.	Value.	Duty.	Quantities.	Value.	Duty.	Quantities.	Value.	Duty Collected.
	Lbs.	\$	Lbs.	\$	\$	Lbs.	\$	\$	Lbs.	\$	\$
BUTTER.											
United Kingdom ...											
British Possessions— Australia, &c., &c.											
Foreign Countries— United States &c., &c.											
Total ...											

NOTE.—The Canadian returns also provide for the enumeration of articles imported under the German Surtax Tariff which, however, is not applicable to British South Africa.

\* See pages 7—15 of [Cd. 3466].

4072

No. 116.

CAPE OF GOOD HOPE.

THE SECRETARY OF STATE to THE GOVERNOR.

[Copy to Board of Trade, 13 February, 1908. L.F.]

(No. 22.)

SIR,

Downing Street, 12th February, 1908.

I HAVE the honour to acknowledge the receipt of your despatch, No. 348, of the 29th of November last,\* enclosing a copy of a minute from your late Ministers on the subject of the note prepared by the Board of Trade for the Colonial Conference with the object of securing more uniformity in the trade statistics of the Empire. I caused a copy of your despatch to be forwarded to the Board of Trade, and I now transmit for the consideration of your Ministers a copy of a letter† from that Department containing further observations on the subject.

I have, &c.,  
ELGIN.

5824

No. 117.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 17th February, 1908.)

(No. 11.)

Governor-General,

Hill View,

MY LORD,

Moss Vale, New South Wales, 11th January, 1908.

REFERRING to your Lordship's despatches, "Miscellaneous," dated 30th July and 16th October, 1907,‡ with respect to the desirability of securing greater uniformity in the trade statistics of the Empire, I have the honour, at the instance of my Prime Minister, to inform your Lordship that quantities and values of goods imported will, in future publications of the trade returns of the Commonwealth, be shown against the particular countries of origin in all cases where quantity is now recorded. I am advised that hitherto the values only have been shown in relation to the country of origin. As the preferential rates of duty operate only on the manufactures or produce of the favoured country, the information sought by the British Board of Trade will thus be made available.

2. The question of extending the record of quantity to a larger number of items, including certain items so dealt with in the Board of Trade Returns, is at present under the consideration of the Commonwealth Department of Trade and Customs, but a decision has not yet been arrived at in the matter.

I have, &c.,  
NORTHCOTE,  
Governor-General.

8886

No. 118.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 12th March, 1908.)

Board of Trade, (Commercial Department),

7, Whitehall Gardens, London, S.W., 11th March, 1908.

SIR,

WITH further reference to the letter addressed to you from this Department on 23rd September last,§ respecting the desirability of securing greater uniformity in the trade statistics of the various parts of the British Empire, I am now directed

\* No. 113. † No. 115. ‡ Nos. 106 and 110. § 34045A: not printed.



by the Board of Trade to forward to you, for the information of Lord Elgin, copy of a letter and its enclosure received by the Board from the India Office relative to the views of the Government of India on the Note laid before the Imperial Conference on this matter.

I have, &c.,  
ARTHUR WILSON FOX.

8886

Enclosure in No. 118.

INDIA OFFICE TO BOARD OF TRADE.

(R. and S. 291.)

SIR, India Office, Whitehall, London, S.W., 27th February, 1908.  
I AM directed by the Secretary of State for India in Council to acknowledge the receipt of Mr. Stanley's letter of the 23rd September, 1907, C. 4686 (with enclosures), on the subject of the desirability of securing greater uniformity in the trade statistics of the British Empire.

In reply, I am to forward a copy of a letter, dated 16th January, 1908, from the Government of India, setting forth their views on the proposals made by the Board of Trade, and commended in a resolution adopted by the Colonial Conference of 1907 to the consideration of the various Governments of the British Empire.

It will be observed that the Government of India are preparing annual tables showing the countries of origin and destination of articles, and that specific proposals may shortly be expected regarding the classification of imports and exports, and the classification of trade by groups.

With regard to the adoption of the calendar, instead of the fiscal, year, I am to say that when a similar proposal was made in 1891 the Government of India demurred to any change on the ground that statistical comparisons with past years would be difficult for a very long time; that financial transactions are recorded for the official and not the calendar year; and that as the busiest commercial season in India ends in March, the present arrangement is advantageous. Mr. Secretary Morley, in view of the objections still entertained by the Government of India to the proposed change, is unwilling to press the subject further.

I am to add that the wider adoption of sterling notation for rupees, as proposed in paragraphs 5 and 6 of the accompanying letter, will be a step of some importance in the direction of greater uniformity in Imperial statistics.

I am, &c.,  
A. GODLEY.

The Comptroller-General,  
Commercial Department,  
Board of Trade.

GOVERNMENT OF INDIA.

Department of Commerce and Industry.

Statistics.

(No. 4 of 1908.)

SIR, Calcutta, 16th January, 1908.  
We have the honour to acknowledge the receipt of your despatch, No. 184 (Revenue), dated the 25th October, 1907, with which you forwarded, for our consideration, and an expression of our views, a copy of a letter from the Board of Trade transmitting a copy of a resolution adopted at the recent Colonial Conference in favour of greater uniformity in the trade statistics of the British Empire.

2. In paragraph 2 of your despatch you suggest the adoption of the calendar in place of the financial year in the preparation of the Annual Returns of Indian Trade. In this connection we would invite attention to paragraph 7 of the despatch from the Government of India, No. 330, dated the 9th December, 1891. The reasons then advanced in favour of adhering to the official year still hold good. We are strongly of opinion that any change is, from the point of view of India, greatly to be deprecated, and we consider that the advantages to be gained from the adoption

of the calendar year would be more than outweighed by the break in continuity that would result.

3. The proposal that information should be shown as to countries of origin and ultimate destination, has, as explained in paragraph 3 of your despatch, already been met by the recommendations of the Committee on Indian Trade Statistics, to which effect is now being given in accordance with the orders in paragraphs 2 and 3 of our resolution in the Department of Commerce and Industry, No. 1650-1660-3, dated the 2nd March, 1906. A new set of annual tables arranged according to countries of consignment and of final destination is in course of preparation.

4. The question of the adoption of the main heads of the British Returns in respect of classification of exports and imports for the Indian Returns, and the classification of trade by groups according to the form given in Annexure 3 to your despatch, has been for some time under consideration. Some progress has been made by the Director-General of Commercial Intelligence towards the formulation of specific proposals, and we hope shortly to receive definite recommendations from him.

5. With regard to the point raised in paragraph 6 of your despatch, we regret that through an oversight in the Statistical Department effect has not yet been given to the decision referred to in paragraph 5 of the despatch from the Government of India, No. 329, dated the 4th October, 1900. We propose to direct that the sterling notation should be adopted in the new statistics now in course of preparation, showing trade by countries of origin and destination in accordance with the decision referred to in the third paragraph of the despatch. This course will avoid an additional break in the continuity of our statistical volumes.

6. We agree that the sterling equivalent of rupee figures should, as proposed in the concluding paragraph of your despatch, be given in the Annual Review of the Trade of India, and we have instructed the Director-General of Commercial Intelligence, when preparing future issues of the Review, to show sterling equivalents in addition to the rupee figures both in the tables and in the narrative.

We have, &amp;c.,

MINTO.  
KITCHENER.  
H. ERLE RICHARDS.  
E. N. BAKER.  
C. H. SCOTT.  
H. ADAMSON.  
J. F. FINLAY.  
J. O. MILLER.

To the Right Honourable John Morley, O.M.,  
His Majesty's Secretary of State for India.

11050

No. 119.

ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 28 March, 1908.)

(No. 38.)

Governor's Office, Bloemfontein, Orange River Colony,

MY LORD,

9 March, 1908.

WITH reference to your despatches, Miscellaneous, of the 30th July and the 16th October last,\* relative to the desirability of securing greater uniformity in the trade statistics of the Empire, I have the honour to inform your Lordship that I have brought the subject to the attention of my Ministers.

2. Ministers are of opinion that, as the whole question of the administration and working of the South African Customs Statistical Bureau is to form one of the subjects for discussion at the forthcoming Inter-Colonial Customs and Railway Conference, further consideration of this matter should be deferred until the

\* Nos. 107 and 110.



Conference meets, when it might be discussed in connection with the general question, in order to endeavour to arrive at some general agreement for furthering your Lordship's wishes.

I have, &c.,  
HAMILTON GOOLD-ADAMS,  
Governor.

8886

No. 120.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

(Australia. No. 109.) (Natal. No. 47.)  
(Canada. No. 173.) (New Zealand. No. 53.)  
(Newfoundland. No. 55.) (Transvaal. No. 83.)  
(Cape of Good Hope. No. 54.) (Orange River Colony. No. 39.)

My LORD,

SIR,

Downing Street, 2 April, 1908.

WITH reference to my despatch, "Miscellaneous," of the 30th of July, 1907,\* as to the desirability of securing greater uniformity in the trade statistics of the Empire, I have the honour to transmit to Your Excellency, for the information of your Ministers, printed copies of correspondence† as noted in the margin which has since taken place on the subject.

To Australia, Cape, Natal, Transvaal, Orange River Colony, Miscellaneous, 16th October.  
Governor, Orange River Colony, No. 51, 16th September.  
Governor, Natal, No. 198, 28th October.  
High Commissioner, South Africa, No. 977, 18th November.  
Governor, Cape, No. 348, 29th November.  
High Commissioner, South Africa, No. 1078, 9th December.  
Board of Trade, 4th February, 1908.  
To Governor, Cape, No. 22, 12th February.  
Governor-General, Australia, No. 11, January 11.  
India Office to Board of Trade, 27th February, 1908.

I have, &c.,  
ELGIN.

11050

No. 121.

ORANGE RIVER COLONY.  
COLONIAL OFFICE to BOARD OF TRADE.

SIR,

Downing Street, 14 April, 1908.

WITH reference to the letter from this Department of the 3rd instant,‡ and previous correspondence respecting the desirability of securing greater uniformity in the trade statistics of the Empire, I am directed by the Secretary of State to transmit to you, to be laid before the Board of Trade, a copy of a despatch§ from the Governor of the Orange River Colony stating that his Ministers are of opinion that further consideration of the matter should be deferred until the meeting of the forthcoming Inter-Colonial Customs and Railway Conference, when the whole question of the administration and working of the South African Customs Statistical Bureau will be discussed.

I am to add, for the information of the Board of Trade, that the Conference is expected to meet early in May.

I am, &c.,  
C. P. LUCAS.

\* No. 106 or 107. † Nos. 110, 109, 111 to 117, and enclosure in No. 118.  
‡ 8886: not printed. § No. 119.

18542

No. 122.

## SOUTH AFRICA.

THE HIGH COMMISSIONER to THE SECRETARY OF STATE.

(Received 23 May, 1908.)

(No. 367.)

My LORD, High Commissioner's Office, Johannesburg, 4 May, 1908.  
WITH reference to my despatch, No. 1078, of December 9th, 1907,\* I have the honour to enclose, for your information, a copy of the undermentioned documents on the subject of the desirability of securing, so far as circumstances permit, greater uniformity in the trade statistics of the Empire.

I have, &c.,  
SELBORNE,  
High Commissioner.

## SCHEDULE OF ENCLOSURES.

1. Despatch, No. 436, from Governor, Cape. December 5th, 1907.
2. Despatch, No. 303, from Administrator, Southern Rhodesia. December 9th, 1907.
3. Letter from South African Customs Statistical Bureau. January 10th, 1908.
4. Despatch, No. 112, from Governor, Orange River Colony. March 6th, 1908.
5. Despatch, No. 136, from Governor, Cape. April 13th, 1908.
6. Letter to Secretary, Inter-Colonial Customs and Railway Conference. April 29th, 1908.
7. Letter to Principal, South African Customs Statistical Bureau. May 1st, 1908.

## Enclosure 1 in No. 122.

(Cape. No. 436.)

My LORD, Government House, Cape Town, 5 December, 1907.  
I HAVE the honour to transmit to your Lordship, with reference to your despatch, No. 37/74, of 14th November, the document specified in the annexed schedule.

I have, &c.,  
WALTER HELY-HUTCHINSON.

His Excellency  
The Right Honourable  
The Earl of Selborne, G.C.M.G.,  
&c., &c., &c.

Date.	Description of Document.
29 November, 1907 ... ..	Despatch No. 348 to the Right Honourable the Secretary of State for the Colonies.—Desirability of securing greater uniformity in the Trade Statistics of the Empire.

## Enclosure 2 in No. 122.

(High Commissioner. No. 303.)

My LORD, Administrator's Office, Salisbury, 9 December, 1907.  
I HAVE the honour to acknowledge the receipt of your Lordship's despatch, No. 37/74, of the 14th ultimo, forwarding correspondence respecting the resolution, passed at the recent Colonial Conference in London, "to secure greater uniformity in the trade statistics of the Empire."

\* No. 114.



In reply I have the honour to state that pending the receipt of a report from the South African Statistical Bureau after its meeting in January next, this Administration is not prepared to express any opinion beyond a general concurrence in the view of the proposal set forth in the minute of the Natal Collector of Customs.

I have, &c.,  
W. H. MILTON,  
Administrator.

His Excellency  
The High Commissioner,  
Johannesburg.

Enclosure 3 in No. 122.

SOUTH AFRICAN CUSTOMS STATISTICAL BUREAU.

Cape Town, 10 January, 1908.

TRADE STATISTICS OF THE EMPIRE.

SIR,

In further reply to your letters, Nos. 37/74 and 39/56, of the 14th November, 1907, and 9th ultimo; respectively, I have the honour to inform you that the documents transmitted therewith were brought before the Board of Control at its meeting on the 6th instant, and the various suggestions put forward in (1) the note prepared by the Board of Trade, and (2) the despatch, dated the 16th October, 1907, from the Right Honourable the Secretary for the Colonies, were debated at length.

As the result of such discussion, I am directed to convey to you the following opinions of the Board of Control, relative to the several recommendations made by the Imperial Government:—

(A) *Board of Trade Note on Trade Statistics.*

It must be premised that this note, being prepared on the published statistics for 1905, does not apply so fully to the figures published in the Annual Return for 1906 compiled by this Bureau, an examination of which will show that a not inconsiderable proportion of the recommendations made have been already adopted.

(I.) *Common Statistical Year.*—Although the financial years of the various Colonies and Territories comprising the South African Customs Union are not uniform, the Bureau returns are compiled on the basis of the calendar year.

(II.) *Countries of (a) Origin and (b) Destination of Imports and Exports.*—The statistics published in the Bureau Annual Return give full details of the actual country of origin of goods imported into both British South Africa as a whole and each Colony and Territory thereof, the practice previously obtaining in the Cape Colony of showing the "Port of Shipment" having been considered inadequate and unsatisfactory.

The question of the destination of exports has been on several occasions raised by the Bureau, as it is felt that the practice at present obtaining is most unsatisfactory, the port to which goods are shipped being in many cases no guide to their final destination. The mercantile community has, however, expressed such uncompromising disapproval of the proposed alterations that it has been found impracticable to carry them out, though on what grounds the opposition is based is not readily apparent.

(III.) *Amplification and (IV.) Grouping of Classifications of Imports and Exports.*—The amplification to any great extent of the classification at present adopted is rendered difficult, if not impracticable, by the fact that all headings are to a very great extent governed by the items of the Customs Union tariff; full details consequently being often unobtainable from the Customs documents dealt with.

A certain amount of grouping under generic heads has been carried out in the printed returns, grand totals being also shown, e.g., animals, living; articles of food and drink; machinery and the various sub-heads of textile manufactures; while summary tables appear in the Annual Returns giving figures under groups and sub-groups. A further classification of imports and exports by groups is being adopted in the Bureau Annual Return for 1907.

(B) *Secretary of State's Despatch, 16 October, 1907.*

It is intended in the Annual Statement for 1907 to insert a table showing details of the quantities and values of goods imported into the various Colonies and British South Africa as a whole under the preferential rates of duty granted to imports from the United Kingdom and reciprocating British Colonies.

I have, &c.,  
A. J. S. LEWIS,  
Principal.

The Imperial Secretary,  
Johannesburg.

Enclosure 4 in No. 122.

(South Africa. No. 112.)

Governor's Office, Bloemfontein, Orange River Colony,  
6 March, 1908.

MY LORD,

WITH reference to your despatches, No. 37/74, of the 14th November, and No. 39/56, of the 9th December last, relating to the desirability of securing greater uniformity in the trade statistics of the Empire, I have the honour to transmit herewith, for your Lordship's information, copy of a despatch\* conveying to the Secretary of State the views of my Ministers on the subject.

I have, &c.,  
HAMILTON GOULD-ADAMS,  
Governor.

His Excellency

The Earl of Selborne, P.C., G.C.M.G., &c., &c., &c.,  
High Commissioner for South Africa, Johannesburg.

Enclosure 5 in No. 122.

(Cape. No. 136.)

MY LORD,

Government House, Cape Town, 13 April, 1908.

I HAVE the honour to transmit to your Lordship, for your consideration, with reference to my despatch, No. 436, of 5th December, the documents specified in the annexed schedule.

I have, &c.,  
His Excellency  
The Right Honourable the Earl of Selborne, G.C.M.G.,  
&c., &c., &c.  
WALTER HELY-HUTCHINSON.

Despatch, No. 22, from the Right Honourable the Secretary of State for the Colonies. February 12, 1908.

Minute, No. 1/190, from Ministers. April 10, 1908.

Desirability of securing greater uniformity in the trade statistics of the Empire.

(Minute 1/190.)

10 April, 1908.

With reference to His Excellency the Governor's Minute, No. 173, of the 3rd ultimo, in regard to the further letter from the Board of Trade on the subject of securing greater uniformity in the trade statistics of the Empire, Ministers have the honour to point out, in respect to the suggestion for a preference return, that in the twelve monthly trade returns just issued by the Customs Statistical Bureau, preference tables have been included for the Cape Colony, Orange River Colony, Natal, the Transvaal, and Southern Rhodesia individually, and for British South Africa as a whole. This return, although not based on the Canadian model, at the same time covers all the detail given therein.



Ministers consider that the question of uniform classification, and the summary of trade of each of the main groups of articles classified should be discussed and reported upon by the several principal officers of Customs, and it is suggested, therefore, that the Board of Control of the Customs Statistical Bureau should, at its next meeting, consider the proposals made by the Board of Trade.

If any alteration is decided upon after receiving the report of the Board of Control of the Bureau, such alteration should be made to take effect with the issue of the annual volumes for the current year.

Ministers have the honour to request that His Excellency will kindly ascertain whether the other parties to the Customs Union are agreeable to the above suggestion.

JOHN X. MERRIMAN.

Enclosure 6 in No. 122.

(No. 13/21.)

SIR, High Commissioner's Office, Johannesburg, April 29, 1908.

I AM directed by the High Commissioner to inform you that the various Governments which are parties to the South African Customs Union have had under consideration the question of giving effect to the resolution passed by the Imperial Conference, 1907, "that it is desirable, so far as circumstances permit, to secure greater uniformity in the trade statistics of the Empire, and that the note prepared on this subject by the Imperial Government be commended to the consideration of the various Governments represented at this Conference." The note referred to is a memorandum prepared by the Board of Trade, and is printed at page 521 of the "papers laid before the Colonial Conference, 1907" (Cd. 3524).

2. In this connection the Secretary of State had also brought to the notice of the various Governments concerned a further suggestion by the Board of Trade that it would be of considerable advantage for statistical purposes if separate particulars could for the future be given in the official trade reports of the various Colonies comprising the South African Customs Union of the quantities and values of goods imported at preferential rates of duty, following the course already adopted by the Governments of Canada and New Zealand.

3. The whole question raised was considered by the Board of Control, South African Customs Statistical Bureau at its meeting in January last, and a report adopted by the Board was circulated for the information of the several Governments represented thereon.

4. In answer to the suggestions made, the Orange River Colony Government gave it as their opinion that, as the whole question of the administration and working of the Customs Statistical Bureau was to form one of the subjects for discussion at the forthcoming Inter-Colonial Conference, further consideration of the matter should be deferred until the Conference met, when it might be discussed in connection with the general question in order to endeavour to arrive at some general agreement for furthering the wishes of His Majesty's Government.

5. The Orange River Colony Minute embodied in the preceding paragraph has not been circulated to the other Governments which are to be represented at the Conference. His Excellency understands that the papers on the matter were shown to you, on its receipt, in order that the subject might be noted for inclusion in the Agenda of the Conference; but that you were of opinion that the question of the future of the Bureau, which is to come before the Conference, covered this one, and so considered that no action need be taken to obtain the consent of the other Governments to the latter being placed on the Agenda.

6. The Cape Government have now proposed that the question of uniform classification and summary of trade in each of the main groups of articles classified should be discussed and reported upon by the several principal Officers of Customs, and that the Board of Control, Customs Statistical Bureau, should again consider the Board of Trade's recommendations at its next meeting. His Excellency is circulating this suggestion to the other parties to the Union, and in doing so is drawing their attention as well as that of the Government of Cape Colony to the views of the Orange River Colony Government quoted above—that further consideration of this

matter should be deferred until the Inter-Colonial Conference has had an opportunity of discussing the general question of the future of the Bureau.

I have, &c.,

C. H. RODWELL,  
Imperial Secretary.

The Secretary to the  
Inter-Colonial Customs and Railway Conference.

Enclosure 7 in No. 122.

(No. 13/21.)

SIR, High Commissioner's Office, Johannesburg, 1 May, 1908.

WITH reference to your letter, No. 306/636, of January 10th, relative to the resolution passed by the Imperial Conference, 1907, in favour of securing greater uniformity in the trade statistics of the Empire, I am directed by the High Commissioner to inform you that the Cape Government have proposed that the question of uniform classification and summary of trade in each of the main groups of articles classified, should be discussed and reported upon by the several principal Officers of Customs, and that the Board of Control, Customs Statistical Bureau, should again consider the recommendations of the British Board of Trade at its next meeting.

2. The Orange River Colony Government have, however, expressed the opinion that this matter might be discussed at the Inter-Colonial Customs and Railway Conferences in connection with the general question of the administration and working of the Customs Statistical Bureau, and that further consideration of it should be deferred until then.

I have, &c.,

C. H. RODWELL,  
Imperial Secretary.

The Principal,  
South African Customs Statistical Bureau,  
Cape Town.

18767

No. 123.

NEWFOUNDLAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 25 May, 1908.)

(No. 61.)

Government House, St. John's, Newfoundland,

9 May, 1908.

MY LORD, REFERRING to your predecessor's despatch, No. 55, of date 2nd April,\* relating to the desirability of securing greater uniformity in the trade statistics of the Empire, I have the honour to transmit to your Lordship enclosed copy of a letter from my Prime Minister, in which he points out that an alteration in the Tariff cannot take place until a new Revenue Act is passed, and that, in the meantime, our statistical staff is too small to admit of a second compilation in different form of the yearly returns.

I have, &c.,

WM. MACGREGOR.

Enclosure in No. 123.

Colonial Secretary's Office, St. John's, Newfoundland,

7 May, 1908.

SIR, REFERRING to despatch, No. 55, of date 2nd April, from the Right Honourable the Secretary of State for the Colonies, in reference to the desirability of securing greater uniformity in the trade statistics of the Empire, I have the honour to



state that the said despatch, with enclosures, was brought to the notice of the Minister of Finance and Customs.

The trade statistics of this Colony are contained in the Customs Blue Book, published annually, and are compiled from the Customs entries, which are made in conformity with the Tariff. In order to bring our statistics in uniformity with those of the United Kingdom, it would be necessary for us to alter the arrangement of our Tariff and the mode of entering goods. An alteration in the Tariff cannot take place until a Revenue Act is passed. In the meantime our statistical staff is too small to admit of a second compilation in different form of the yearly returns.

I have, &c.,  
R. BOND,  
Colonial Secretary.

His Excellency  
Sir William MacGregor, G.C.M.G., C.B.,  
Governor.

20614

No. 124.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 6 June, 1908.)

(No. 104.)

MY LORD,

Government House, Cape Town, 19 May, 1908.

I HAVE the honour to transmit to your Lordship, with reference to your predecessor's despatch, No. 54, of 2nd April last,\* a copy of a minute from Ministers on the subject of the desirability of securing greater uniformity in the trade statistics of the Empire.

I have, &c.,  
WALTER HELY-HUTCHINSON.

Enclosure in No. 124.

MINISTERS to GOVERNOR.

(Minute No. 1/265.)

Prime Minister's Office, Cape Town, 15 May, 1908.

With reference to His Excellency the Governor's Minute, No. 319, of the 21st ultimo, transmitting copy of a despatch from the Right Honourable the Secretary of State for the Colonies, covering copies of further correspondence on the subject of the desirability of securing greater uniformity in the trade statistics of the Empire, Ministers have the honour to state that the Principal of the Customs Statistical Bureau proceeded on the 5th instant to England on leave of absence, and they would suggest, therefore, that he be authorised to confer with the Board of Trade officials in regard to the classification of trade statistics proposed by that Institution.

If the other Governments concerned agree to this suggestion, Ministers would be pleased to convey the necessary instructions to Mr. Lewis.

With the advantage of direct discussion between the Principal of the Bureau and the Board of Trade Authorities there is every probability that satisfactory arrangements can be devised.

In the meanwhile it is understood that the question of classification will be fully discussed at the next meeting of the Board of Control of the Bureau to ascertain how far it will be possible to adopt the proposals which have been made by the Board of Trade.

JOHN X. MERRIMAN.

\* No. 120.

18542

No. 125.

SOUTH AFRICA. NEWFOUNDLAND.

COLONIAL OFFICE to BOARD OF TRADE.

SIR,

Downing Street, 12 June, 1908.

I AM directed by the Earl of Crewe to transmit to you, to be laid before the Board of Trade, with reference to the letter from this Department of the 14th of April,\* the enclosed copies of despatches† which have been received from the High Commissioner for South Africa and the Governor of Newfoundland, relating to the desirability of securing greater uniformity in the trade statistics of the Empire.

I am to state that the Secretary of State has not yet received the report of the proceedings of the South African Inter-Colonial Customs and Railway Conference, and that, consequently, his Lordship cannot say what decision has been arrived at as to the South African Customs Statistical Bureau.

I am, &c.,  
C. P. LUCAS.

20614

No. 126.

SOUTH AFRICA.

COLONIAL OFFICE to BOARD OF TRADE.

SIR,

Downing Street, 18 June, 1908.

WITH reference to the letter, from this Department, of the 12th instant,‡ and previous correspondence relating to the desirability of securing greater uniformity in the trade statistics of the Empire, I am directed by the Earl of Crewe to transmit to you, to be laid before the Board of Trade, a copy of a despatch§ from the Governor of the Cape of Good Hope, enclosing a copy of a Minute from his Ministers, in which it is suggested that the Principal of the South African Customs Statistical Bureau, who is now on leave in this country, should be authorised to confer with your Department on the subject.

I am to state that as soon as Lord Crewe learns whether the other South African Governments agree to the suggestion of the Cape Government, a further communication will be addressed to you.

I am, &c.,  
H. W. JUST.

XI.

(Resolution XV.)

Uniformity in Company Law.

26073

No. 127.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS OF RESPONSIBLE GOVERNMENT COLONIES.

(Miscellaneous.)

MY LORD,

SIR,

Downing Street, 31st July, 1907.

I HAVE the honour to request [Your Excellency] [you] to draw the attention of your Ministers to the resolution adopted by the Colonial Conference "that it is desirable, so far as circumstances permit, to secure greater uniformity in the Company Laws of the Empire, and that the memorandum and analysis prepared on this subject by the Imperial Government be commended to the consideration of the various Governments represented at this Conference."

\* No. 121.

† Nos. 122 and 123.

‡ No. 125.

§ No. 124.



The memorandum to which reference is made is printed at page 527 of the "Papers laid before the Conference" [Cd. 3524], and I have to

[Canada only: request that your Government will commend the matter to the consideration of the several Provincial Governments in accordance with the intention of the resolution.]

[Australia only: state, for the information of your Ministers, that, in accordance with the intention of the resolution, I have addressed the Governments of the several States in the Commonwealth commending the matter to their consideration.]

[To New Zealand, Newfoundland, Cape, Natal, Transvaal, Orange River Colony: commend it to the consideration of your Government in accordance with the terms of the resolution.]

[To Australian States: commend it to the consideration of your Ministers.]

I have, &c.,  
ELGIN

37032

No. 128.

NATAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 21st October, 1907.)

(No. 170.)

MY LORD,

Government House, Pietermaritzburg, Natal,  
27th September, 1907.

WITH reference to your Lordship's Miscellaneous despatch of the 31st July, 1907,\* drawing the attention of Ministers in this Colony to the desirability of securing, so far as circumstances permit, greater uniformity in the Company Laws of the Empire, I am requested to inform your Lordship that this matter is already under the consideration of the South African Governments in connection with the Joint Stock Bill drafted by the Attorney-General of the Transvaal in 1902, and subsequently discussed by the Attorneys-General of the several Colonies.

The Government of Natal has since been waiting a further communication from the Transvaal, and pending receipt of this the Ministers are of opinion that no special action on the resolution adopted by the Colonial Conference need be taken.

I have, &c.,  
M. NATHAN.

37180

No. 129.

ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 21st October, 1907.)

(No. 73.)

MY LORD,

Governor's Office, Bloemfontein, Orange River Colony,  
30th September, 1907.

WITH reference to your Lordship's despatch, Miscellaneous, of the 31st July,\* regarding the resolution adopted by the Colonial Conference as to the desirability of securing, as far as possible, greater uniformity in the Company Laws of the Empire, I have the honour to inform you that this matter will be laid before the new Government for their consideration at the earliest opportunity.

I have, &c.,  
HAMILTON GOOLD-ADAMS.  
Governor.

\* No. 127.

40511

No. 130.

TASMANIA.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 18th November, 1907.)

(No. 38.)

MY LORD,

Government House, Hobart, 14th October, 1907.

IN reply to Your Lordship's despatch, Miscellaneous, of the 31st of July,\* I have the honour to transmit a communication from my Ministers expressing their full sympathy with the desirability of securing greater uniformity in the Company Laws of the Empire.

2. It may be noted that Ministers fully realise and appreciate the importance and efficacy of the power vested in the Federal Parliament to deal with Company law.

I have, &c.,  
G. STRICKLAND,  
Governor.

Enclosure in No. 130.

(P.O. 107/6/07.)

YOUR EXCELLENCY,

Premier's Office, Hobart, October 8, 1907.

REFERRING to the Miscellaneous despatch from the Secretary of State, dated the 31st July last (returned herewith), relative to the desirability of securing greater uniformity in the Company laws of the Empire, I have the honour to inform you that I have been advised by my colleague,\* the Honourable the Attorney-General, that he is of the opinion that the consolidation of these laws would prove invaluable, and your Ministers will be happy to consider the codification referred to in the memorandum printed on page 527 of the papers laid before the Conference [Cd. 3524], as soon as it is available.

It is pointed out that the Federal Parliament has power to deal with Company laws.

I have, &c.,  
J. W. EVANS,  
Premier.

His Excellency the Governor,  
Hobart.

40514

No. 131.

VICTORIA.

THE LIEUTENANT-GOVERNOR to THE SECRETARY OF STATE.

(Received 18th November, 1907.)

(No. 52.)

MY LORD,

State Government House, Melbourne, 14th October, 1907.

WITH reference to your Lordship's despatch marked "Miscellaneous," of the 31st July last,\* respecting the resolution adopted by the Colonial Conference in regard to the Company Laws of the Empire, I have the honour to inform you that my Government report that it is understood that this matter is to be dealt with shortly by the Commonwealth Parliament.

I have, &c.,  
JOHN MADDEN.

\* No. 127.



No. 132.

## SOUTH AUSTRALIA.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 26th November, 1907.)

(No. 58.)

MY LORD,

Government House, Adelaide, 18th October, 1907.

WITH reference to Your Lordship's despatch, South Australia, Miscellaneous, of the 31st July,\* on the subject of Company Laws, I have the honour to transmit the enclosed copy of a report of the Registrar of Companies of this State upon the subject, with which my Ministers concur.

I have, &amp;c.,

GEORGE R. LE HUNTE.

Enclosure in No. 132.

Returned to the HONOURABLE THE ATTORNEY-GENERAL,

I HAVE already had an opportunity of perusing and considering the Comparative Analysis of the Company Laws of the Empire prepared by the Board of Trade for the 1907 Colonial Conference.

As to the resolution adopted by the Conference, "that it is desirable so far as circumstances permit, to secure greater uniformity in the Company Laws of the Empire," there does not appear to be any room for difference of opinion.

Under Section 51 XX of the Constitution Act, the Commonwealth Parliament has power to make laws with respect to foreign corporations within the limits of the Commonwealth, and the Commonwealth Government has intimated its intention of introducing such legislation at an early date. It was in view of such proposed legislation that a Conference of State officials was convened in June last. The object of the Conference was purely informative—its advice was not asked on questions of policy, and, indeed, at that stage the Commonwealth Ministers had apparently not considered such questions.

I have no knowledge of what has since been done by the Commonwealth Government in the matter, but personally have little doubt that the Commonwealth measure when framed will be found in general to follow English legislation with such variations or additions only as local conditions may appear to render desirable, and that the administration of the Act will be centralized at the seat of the Federal Government.

One effect of Federal legislation on the subject will doubtless be to divert the Revenue from Fees from the State to the Commonwealth Treasury.

ALEX. BUCHANAN,

Registrar of Companies.

September 19, 1907.

41349

No. 133.

THE SECRETARY OF STATE to THE GOVERNORS AND GOVERNOR-GENERAL.

(Orange River Colony. No. 32.) (New South Wales. No. 20.)

(New Zealand. No. 28.) (Queensland. No. 13.)

(Newfoundland. No. 27.) (Western Australia. No. 8.)

(Cape. No. 32.) (Canada. No. 98.)

(Transvaal. No. 48.)

SIR,

MY LORD,

Downing Street, 26 February, 1908.

[To Orange River Colony only.—WITH reference to your despatch, No. 73, of the 30th September last,†]

\* No. 127.

† No. 129.

I have the honour to request that <sup>you</sup> Your Excellency will be good enough to direct the attention of your Ministers to my despatch, Miscellaneous, of the 31st of July last,\* on the subject of Company Laws, to which I should be glad to receive a reply as soon as convenient.

I take this opportunity of enclosing, for your Ministers' information, copies of all the replies† at present received from the various Governments concerned in the matter.

I have, &amp;c.,

ELGIN.

41349

No. 134.

## AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Answered by No. 140.]

(No. 63.)

MY LORD,

Downing Street, 26 February, 1908.

WITH reference to my despatch, Miscellaneous, of the 31st of July last,\* respecting the resolution adopted at the Colonial Conference in regard to Company Laws, I have the honour to forward, for the information of your Ministers, copies of all the replies† which have at present been received on the subject.

2. I gather from the replies of the Australian States that the Commonwealth Government contemplates legislating in the matter and I should be glad to learn when it is proposed to introduce such legislation.

I have, &amp;c.,

ELGIN.

7568

No. 135.

## ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 2 March, 1908.)

[Copy to Board of Trade, 13 March, 1908. L.F.]

(No. 22.)

Governor's Office, Bloemfontein, Orange River Colony,

10 February, 1908.

MY LORD,

WITH reference to my despatch, No. 71 [? 73], of the 30th September last,† regarding a resolution adopted by the Colonial Conference as to the desirability of securing, as far as possible, greater uniformity in the Company Laws of the Empire. I have the honour to inform your Lordship that my Ministers regret that, in view of the many matters which have claimed their attention in the short period which has been at their disposal since taking office, it has not been possible for them to give the necessary attention to this important subject (which has already engaged the attention of the previous Government of this Colony and the other Governments of South Africa for many years, and which will require further and considerable attention before any definite result can be hoped for) involving as it does a comparative investigation of the Company Laws prevailing in various parts of the Empire.

2. My Ministers further express their regret that as many other and more urgent matters are engaging their attention, they will be precluded for some time to come from giving this subject the attention it deserves and will require.

3. If possible, an opportunity will be taken of informally mentioning this matter at the forthcoming Railway and Customs Conference, with a view to arranging plans for securing joint action by the various South African Colonies.

I have, &amp;c.,

HAMILTON GOOLD-ADAMS,

Governor.

\* No. 127.

† Nos. 128, 130, 131 and 132.

‡ No. 129.



41349

No. 136.

COLONIAL OFFICE to BOARD OF TRADE.

[Answered by 12469: not printed.]

SIR, Downing Street, 25 March, 1908.  
 WITH reference to the letter from this Department of the 31st July last,\* respecting the resolution passed at the Colonial Conference relating to the Company Laws of the Empire, I am directed by the Earl of Elgin to transmit to you, to be laid before the Board of Trade, copies of correspondence† on the subject, as noted below.

2. I am to state that his Lordship would propose that, with a view to securing greater uniformity in the Company Laws of the Empire, a Committee should be appointed on the nomination of the Secretary of State, consisting of representatives of the Departments concerned (the Board of Trade, the India Office, and the Colonial Office) with whom would be associated representatives of the self-governing Dominions, with the consent of their Governments, together with suitable representatives of the Crown Colonies, and I am to enquire whether the President of the Board of Trade agrees to the proposal, and would allow the Comptroller of Companies to be nominated to serve on the Committee.

I am, &c.,  
 FRANCIS J. S. HOPWOOD.

## SCHEDULE OF ENCLOSURES.

1. To self-Governing Colonies, 31st July, 1907.
2. Governor, Natal, 170, 27th September.
3. Governor, Orange River Colony, 73, 30th September.
4. Governor, Tasmania, 38, 14th October.
5. Governor, Victoria, 52, 14th October.
6. Governor, South Australia, 58, 18th October.
7. To certain other self-Governing Colonies, 26th February, 1908.
8. To Governor-General, Australia, 26th February, 1908.

15565

No. 137.

TRANSVAAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 2 May, 1908.)

[Copy to Board of Trade, 3 June, 1908. L.F.]

[Answered by No. 141.]

(No. 111.)

MY LORD, Governor's Office, Johannesburg, 13 April, 1908.  
 WITH reference to your despatch of the 26th February, No. 48,† I have the honour to inform you that the Transvaal Government proposes to introduce during the forthcoming Session of the Legislature a Bill consolidating and amending the Company Laws. It is hoped that a final draft of the Bill will shortly be ready, when copies will be forwarded.

I have, &c.,  
 SELBORNE,  
 Governor.

\* 26073: not printed.

† Nos. 127-134.

‡ No. 133.

15588

No. 138.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 2 May, 1908.)

[Copy to Board of Trade, 3 June, 1908. L.F.]

[Answered by No. 141.]

(No. 73.)

MY LORD,

Government House, Cape Town, 13 April, 1908.

I HAVE the honour to transmit to your Lordship, with reference to your despatch, No. 32, of 26th February, 1908,\* a copy of a minute from Ministers on the subject of securing greater uniformity in the Company Laws of the Empire.

I have, &c.,  
 WALTER HELY-HUTCHINSON.

Enclosure in No. 138.

MINISTERS to GOVERNOR.

(Minute. No. 1/202.)

Prime Minister's Office, Cape Town, 13 April, 1908.

Ministers have the honour to acknowledge receipt of His Excellency the Governor's minute, No. 220, of the 17th ultimo, on the subject of securing greater uniformity in the Company Laws of the Empire, and to state in reply that they fully sympathise with the proposal to obtain such uniformity as far as possible. The Company Law at present in force in the Cape Colony is based upon English legislation, with certain modifications to suit local circumstances and requirements, and Ministers feel that any future legislative attempt in the direction of general uniformity within the Empire must necessarily be circumscribed by local factors to a greater or less extent. The desirability, however, of obtaining greater uniformity than at present exists admits of no question, and the matter has, in fact, for some time been under the consideration of the South African Governments, which it is hoped will be able to deal with it in a practical manner at some not distant date. In this connection Ministers await with interest the receipt of a copy of the consolidating measure referred to in the memorandum printed on page 529 of the papers laid before the recent Colonial Conference in London [Cd. 3524], the contents of which codification should be a valuable guide in future efforts to secure the objects aimed at by the Conference in its resolution on the subject.

JOHN X. MERRIMAN.

15695

No. 139.

CANADA.

THE ACTING GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 4 May, 1908.)

[Copy to Board of Trade, 3 June, 1908. L.F.]

[Answered by No. 141.]

(No. 169.)

MY LORD,

Government House, Ottawa, Canada, 21 April, 1908.

WITH reference to your despatch of the 31st July, 1907,† marked

\* No. 133.

† No. 127.



"Miscellaneous," relative to the desirability of securing greater uniformity in the Company Laws of the Empire, I have the honour to enclose copy of an approved Minute of the Privy Council, setting forth the steps taken by my responsible advisers to bring this matter to the attention of the Provincial authorities.

I have, &c.,  
C. FITZPATRICK,  
Administrator.

Enclosure in No. 139.

(P.C. 1612 M.)

CERTIFIED COPY of a Report of the Committee of the Privy Council, approved by His Excellency the Governor-General on the 24th March, 1908.

The Committee of the Privy Council have had under consideration despatches dated respectively 31st July, 1907, and 26th February, 1908, from the Secretary of State for the Colonies, with respect to the effort to secure greater uniformity in the Company laws of the Empire.

The Minister of Justice, to whom the said despatches were referred, recommends that a copy of the despatches in question and of the paper laid before the Colonial Conference, 1907, referred to in the despatches, be transmitted to the several Lieutenant-Governors of the Provinces and to the Commissioner of the Yukon territory, with a request that the matter may receive consideration at the hands of their Governments at the very earliest opportunity.

The Committee concurring in the recommendation of the Minister of Justice advise that His Excellency be moved to inform the Right Honourable the Secretary of State for the Colonies of the action taken.

All which is respectfully submitted for approval.

RODOLPHE BOUDREAU,  
Clerk of the Privy Council.

17582

No. 140.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 16 May, 1908.)

[Copy to Board of Trade, 3 June, 1908. L.F.]

[Answered by No. 141.]

(No. 109.)

MY LORD, Governor-General's Office, Melbourne, 14 April, 1908.  
REFERRING to your Lordship's despatch, No. 63, dated 26th February last,\* I have the honour to inform your Lordship that a Bill dealing with Company laws is now being drafted by the Law Advisers of the Commonwealth Government, and is likely to be introduced to Parliament next session.

I have, &c.,  
NORTHCOTE,  
Governor-General.

\* No. 134.

12469

No. 141.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL and GOVERNORS.

[Copy to Board of Trade, 3 June, 1908. L.F.]

(Australia. No. 165.)	(Transvaal. No. 130.)
(Canada. No. 280.)	(Orange River Colony. No. 56.)
(Newfoundland. No. 76.)	(Natal. No. 80.)
(New Zealand. No. 82.)	(Cape of Good Hope. No. 94.)

MY LORD,  
SIR.

Downing Street, 22 [and 23] May, 1908.

I HAVE the honour to transmit to Your Excellency, for the information of your Ministers, and with reference to previous correspondence on the subject of the uniformity of Company laws throughout the Empire, copies of a draft Bill\* to consolidate the Companies Law of this country which is being introduced by His Majesty's Government into Parliament.

2. [To Australia only.] His Majesty's Government will be glad to receive, when available, a copy, in draft, of the Bill dealing with Company Laws which I learn from your despatch, No. 102, of the 19th of April,† will probably be introduced into the Commonwealth Parliament next Session.

I have, &c.,  
CREWE.

18755

No. 142.

NEW SOUTH WALES.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 25 May, 1908.)

[Copy to Board of Trade, 3 June, 1908. L.F.]

(No. 34.)

MY LORD, State Government House, Sydney, 13 April, 1908.  
IN reply to your Lordship's despatch of the 26th February, No. 20,‡ on the subject of Company laws, I have the honour to state that my Ministers advise me that your Lordship's despatch of the 31st July, 1907,§ drawing attention to the resolution adopted by the Colonial Conference respecting the desirability of greater uniformity in the Company laws of the Empire has received their consideration, but, as it has been ascertained that the Commonwealth Government has it in contemplation [to legislate] with regard to Company laws, it has been thought advisable to await action on the part of the Commonwealth.

2. If no steps are taken by the Commonwealth during next session, my Government will then consider the advisability of legislating on the subject themselves.

I have, &c.,  
HARRY H. RAWSON,  
Governor.

\* Not printed.

† No. 140.

‡ No. 133.

§ No. 127.



21465

No. 143.

QUEENSLAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 15 June, 1908.)

(No. 25.)

MY LORD, Government House, Brisbane, Queensland, 8 May, 1908.  
 WITH reference to Lord Elgin's "Miscellaneous" despatch of the 31st July, 1907, and subsequent despatch, Queensland, No. 13, of the 26th February last,\* I have the honour to inform your Lordship that I have received a communication from my Acting Premier stating that the question of the uniformity of Company Laws was submitted to his colleague the Attorney-General, and that he advises that, while aware of the desirability of securing such uniformity, he does not counsel any action on the resolution adopted by the Colonial Conference as it is understood that the Parliament of the Commonwealth will shortly be asked to legislate on the subject.

I have sent a copy of this despatch to the Governor-General.

I have, &c.,  
 CHELMSFORD,  
 Governor.

21476

No. 144.

WESTERN AUSTRALIA.

THE LIEUTENANT-GOVERNOR to THE SECRETARY OF STATE.

(Received 15 June, 1908.)

(No. 10.)

MY LORD, Government House, Perth, 18 May, 1908.  
 IN reply to your "Miscellaneous" despatch of the 31st July last, and your despatch, No. 8, of the 26th February last,\* I have the honour to transmit, herewith, a copy of a memorandum which the Premier of this State has addressed to me on the subject of the desirability of securing uniformity in the Company Laws of the Empire.

I have, &c.,  
 E. A. STONE,  
 Lieutenant-Governor.

Enclosure in No. 144.

HIS EXCELLENCY THE LIEUTENANT-GOVERNOR.

With reference to Your Excellency's letter of the 7th September last, and further communication of the 26th March, relative to securing greater uniformity in the Company Laws of the Empire, I have the honour to inform Your Excellency that the desirability of securing uniformity in the Company Laws is, of course, unquestionable, but as, in so far as the Australian States are concerned, the matter is one which comes within the province of the Federal Government (the necessary power being vested in the Commonwealth Parliament) this Government cannot do more than express a favourable opinion.

H. GREGORY,  
 Acting Premier.

11 May, 1908.

\* Nos. 127 and 133.

18755

No. 145.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

(Australia. No. 207.)	(Transvaal. No. 163.)
(Canada. No. 364.)	(Orange River Colony. No. 73.)
(Newfoundland. No. 93.)	(New South Wales. No. 54.)
(New Zealand. No. 114.)	(Queensland. No. 40.)
(Cape. No. 117.)	(Western Australia. No. 26.)

MY LORD,  
 SIR,

Downing Street, 23 June, 1908.

WITH reference to my previous despatch, No. [63] [98] [27] [28] [32] [48] [32] [20] [13] [8], of the 26th of February last,\* I have the honour to transmit to Your Excellency [you], for the information of your Ministers, copies, in print, of further replies† from the Dominions and State Governments on the subject of the uniformity of Company Laws within the Empire.

I have, &c.,  
 CREWE.

18755

No. 146.

THE SECRETARY OF STATE to THE GOVERNORS.

(Tasmania. No. 24.)	(Victoria. No. 33.)
(Natal. No. 102.)	(South Australia. No. 34.)

SIR,

Downing Street, 23 June, 1908.

WITH reference to my previous despatch, Miscellaneous, of the 31st of July, 1907,† I have the honour to transmit to you, for the information of your Ministers, copies, in print, of the replies received from the Dominions and State Governments on the subject of the uniformity of Company Law within the Empire.

I have, &c.,  
 CREWE.

## XII.

## (Resolution XVI.)

## Reciprocity in Admission of Surveyors to Practice.

26074/1907

No. 147.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL AND GOVERNORS.

(Canada. No. 184.)	(New South Wales. No. 33.)
(New Zealand. No. 56.)	(Victoria. No. 21.)
(Cape of Good Hope. No. 58.)	(Queensland. No. 23.)
(Natal. No. 50.)	(South Australia. No. 22.)
(Transvaal. No. 87.)	(Western Australia. No. 15.)
(Orange River Colony. No. 40.)	(Tasmania. No. 16.)
(Newfoundland. No. 58.)	

MY LORD,  
 SIR,

Downing Street, 8 April, 1908.

WITH reference to the discussion printed at pages 502-506 of the Minutes of the Proceedings of the Colonial Conference [Cd. 3523], I have the honour to

\* No. 134 or 133.

† Nos. 135, 138, 139, 140, 142, 143, and 144.

‡ No. 127.

§ Nos. 128, 130, 131, 132, 135, 138, 139, 140, 142, 143, and 141.



request you to invite the attention of your Ministers to the memorandum of the Council of the Surveyors' Institution (printed at page 587 of [Cd. 3524]) on the subject of the proposal to establish reciprocity between the several parts of the British Empire in matters connected with the examination and authorisation of surveyors.

2. [To Canada only.—With a view to the further consideration of the question, I have to request that your Ministers will be so good as to obtain from the several Provincial Governments copies (in duplicate if possible) of the syllabus of examinations recognised by those Governments.]

2. With a view to the further consideration of the question, I have to request that your Ministers will be so good as to supply me with copies (in duplicate if possible) of the syllabus of examinations usually recognised in [New Zealand], [the Cape of Good Hope], &c.

I have, &c.,  
ELGIN.

### XIII.

#### (Resolution XIX.)

#### Naturalization.

26077

No. 148.

COLONIAL OFFICE to HOME OFFICE.

[Answered by No. 149.]

SIR,

Downing Street, 28th January, 1908.

I AM directed by the Earl of Elgin to request you to inform Mr. Secretary Gladstone that he has had under consideration the procedure to be adopted in connection with the proposal to render uniform the laws of naturalisation which was discussed at the recent Colonial Conference (see pages 533 *et seq.* of [Cd. 3523]).

2. It was resolved at the Conference that if necessary a subsidiary Conference should be held to discuss the matter, but Mr. Gladstone stated that if that resolution were adopted it would be for His Majesty's Government to consider, in the light of the views expressed by the Colonial representatives, what alterations could be made in the draft Bill to meet the views expressed at the Conference, after which the further discussion of the matter could be carried on by the subsidiary Conference.

3. Lord Elgin would now therefore propose that an Inter-Departmental Committee of representatives of the Home Office, Foreign Office, India Office, and this Department should be appointed forthwith to discuss the amendment of the draft Bill. If Mr. Gladstone concurs in this proposal, Lord Elgin would be glad if he could approach the Foreign Office and India Office with the view of obtaining the co-operation of those Departments, and of securing the appointment of representatives to serve on the Committee. Lord Elgin would propose to appoint as representative of the Colonial Office Mr. H. W. Just C.B., C.M.G., the Secretary to the Imperial Conference, and he would suggest that Sir M. Chalmers might be asked to represent the Home Office and to act as chairman of the Committee.

4. If the views expressed in this letter are approved by Mr. Gladstone, and when the recommendations of the Committee have been considered by His Majesty's Government, Lord Elgin would propose to send the modified Bill to the Self-governing Dominions, other than the Australian States, who since the passing of the Commonwealth Naturalization Act are no longer concerned in the matter, and request them to authorise their High Commissioners and Agents-General in this country to confer with the Secretary to the Imperial Conference and the nominees of the other offices with the object of arriving at a general agreement on the subject of naturalization.

I am, &c.,  
C. P. LUCAS.

7789

No. 149.

HOME OFFICE to COLONIAL OFFICE.

(Received 4 March, 1908.)

Whitehall, 3 March, 1908.

SIR,

YOUR letter of the 28th January last\* with reference to the procedure to be adopted for carrying out the resolution of the Colonial Conference on the subject of naturalization has been laid before Mr. Gladstone, who directs me to say, for the information of Lord Elgin, that he approves of the proposal to appoint an Inter-Departmental Committee to consider what amendments can be made in the Draft Bill submitted to the Conference with a view to meeting the views expressed by the Colonial representatives. In pursuance of Lord Elgin's suggestion, Sir M. D. Chalmers has been asked and has expressed his willingness to represent the Home Office and act as Chairman of the Committee. Mr. Gladstone has also secured the co-operation of the Foreign Office and the India Office, who would propose, as representatives of their respective Departments, Mr. W. R. D. Maycock, C.M.G., Superintendent of the Treaty Department of the Foreign Office, and Mr. S. G. Sale, for many years a Judge of the High Court at Calcutta and now Legal Adviser to the Secretary of State for India in Council.

Mr. Gladstone will be glad if Lord Elgin will take the necessary steps for the appointment of the Committee, and he understands that a Secretary to the Committee will be provided by the Colonial Office.

I am, &c.,  
C. E. TROUP.

9553

No. 150.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 18 March, 1908.)

The Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary of State for the Colonies, and, by direction of the Secretary of State, transmits herewith copies of the following papers:—(1) Home Office, January 1; (2) To Home Office, March 14 (Aliens Naturalisation Bill).

Foreign Office,

March 14, 1908.

Enclosure 1 in No. 150.

HOME OFFICE to FOREIGN OFFICE.

(196.)

Whitehall, 1 January, 1908.

SIR,

I AM directed by Mr. Secretary Gladstone to say that he has had under consideration your letter of the 11th ultimo expressing Sir Edward Grey's hope that steps will be taken for the introduction of a Bill to consolidate and amend the law relating to aliens and naturalization during the forthcoming session of Parliament, and has paid particular regard to Sir Edward Grey's desire that a clause declaratory of the status of the children of British subjects born in countries where His Majesty exercises extra-territorial jurisdiction should pass into law at an early date.

Mr. Gladstone is entirely in accord with Sir Edward Grey as to the policy of protecting descendants of British subjects in Eastern States, and, as he has previously stated, would be most ready to insert the desired clause in any Bill on the subject which he was in a position to introduce into Parliament with any prospect of passing it into law. He regrets to say, however, that at the present time there cannot be considered to be any such prospect. It will be within Sir Edward Grey's recollection that when the Draft Bill was discussed at the late Colonial Conference a number of points of principle as well as of detail were

\* No. 148.



raised and considerable divergence of opinion appeared, with the result that a resolution was passed to the effect that further inquiry was desirable, probably by way of a "Subsidiary Conference," on which the Colonies as well as the Home Government would be represented. In view of this resolution Mr. Gladstone could not carry out his desire to introduce the Bill into Parliament during last session, and the Lord Chancellor, when the subject of naturalization was raised in the House of Lords by Earl Russell on the 15th May last, stated, after indicating some of the many difficulties involved in a Naturalization Bill applying to the whole Empire, that the Government had no immediate intention of introducing legislation on the subject but that the matter was reserved for further consideration.

Mr. Gladstone understands that it is the view of the Foreign Office, with which he is disposed to concur, that unless and until legislation is practically certain it is inadvisable to advertise by means of a clause in a published Bill the existing difficulty which it is sought to remedy by legislation; and it may, in his opinion, be a question of policy whether, if and when a general Bill is introduced, it should contain the Foreign Office clause, or whether it would not be better to introduce that clause as an amendment at a later stage. The danger of advertising the difficulty has, so far, been avoided, as the Draft Bill which was submitted to the Conference had been drawn before the difficulty came to the front, and the clause to remedy it was not inserted in that Draft.

Mr. Gladstone thinks it right to add that, though he is willing to insert the Foreign Office clause in the general Bill, a possible Parliamentary difficulty is caused by the fact that the new clause, which has the effect of continuing British nationality through successive generations of persons born abroad, conflicts with one of the proposals recommended by the Committee on whose report the Bill was drafted, viz., that the enactment conferring British nationality on the second generation born abroad should be repealed and that the privilege of that nationality should be limited to the first generation born abroad, cf. Clause 28 (1) (a) and (3).

If, for any of the foregoing reasons, Sir Edward Grey should be disposed to introduce a Bill dealing solely with the particular point in question Mr. Gladstone would, of course, offer no objection.

The Under Secretary of State,  
Foreign Office.

I am, &c.,  
M. D. CHALMERS.

Enclosure 2 in No. 150.

FOREIGN OFFICE to HOME OFFICE.

(196.)

SIR, Foreign Office, 14 March, 1908.  
SECRETARY Sir Edward Grey has had under his careful consideration your letter of the 1st of January last respecting the introduction of a Bill during the present session of Parliament to consolidate and amend the law relating to aliens and naturalization, and more especially as to the inclusion therein of a clause declaratory of the status of persons of British descent in States where His Majesty exercises extra-territorial jurisdiction, and also in certain British Protectorates and other territories administered under the provisions of Orders in Council passed under the authority of the Foreign Jurisdiction Act, 1890.

In regard to this particular clause I am to observe that the penultimate paragraph of your letter appears to have been worded under some misapprehension as to the facts. Sir E. Grey is unable to see that the insertion in the Bill of such a clause as was proposed in the letter from this office of the 10th of November, 1904, and in the Home Office letter to the Colonial Office of the 6th of the following December, would in any way conflict with the proposal to repeal the existing enactments which confer British nationality by descent on the second generation born abroad. The object of the addition proposed was (speaking generally) to declare that persons of British origin and descent born in countries where the King exercises extra-territorial jurisdiction were born within the King's allegiance, and were, therefore, in contemplation of English law, to be considered as natural-born British subjects.

The case of persons of British origin born in foreign countries without the King's allegiance appears to be governed by altogether separate and distinct considerations.

Sir Edward Grey fully appreciates, both from the communications which have reached His Majesty's Government and also from perusing the proceedings of the Colonial Conference of 1907, that several of the self-governing Colonies to whom the Draft Bill and the report of the Inter-departmental Committee were communicated, have taken objection to various clauses, notably Nos. 7 and 26. He is, however, not altogether satisfied that these objections when further considered will prove to be so serious as seems to be supposed, and it is at any rate to be hoped that some means may eventually be hit upon for overcoming them.

The question of introducing any measure of importance for the purpose of amending the present naturalization laws of this country is no doubt one that primarily devolves upon the Secretary of State for the Home Department, but Sir Edward Grey cannot refrain from expressing the opinion that the indefinite postponement of the introduction of a Bill to give effect to the recommendations of the Inter-departmental Committee, which was drawn up seven years ago, is a matter for regret. There are many provisions in the Bill originally drafted in 1902 which are wholly uncontroversial and might with great advantage be placed on the statute book at once.

He would be glad, therefore, to learn whether Mr. Secretary Gladstone still sees insuperable difficulties in the way of introducing the Bill—omitting the controversial clauses but incorporating the provision respecting persons born in countries where His Majesty exercises extra-territorial jurisdiction—in the course of the present session.

If, however, Mr. Gladstone is unable to see his way to adopting this suggestion, Sir Edward Grey will consider in communication with the Secretary of State for the Colonies and the Secretary of State for India in Council the question of introducing a one clause Bill of the nature suggested in the final paragraph of your letter under reply.

I am, &c.,  
F. A. CAMPBELL.

The Under-Secretary of State,  
Home Office.

7789

No. 151.

COLONIAL OFFICE to SIR M. D. CHALMERS, MR. W. R. D. MAYCOCK, AND  
MR. S. G. SALE.

SIR, Downing Street, 21 March, 1908.  
I AM directed by the Earl of Elgin to inform you that he has had under consideration the procedure to be adopted in connection with the proposal to render uniform the laws of naturalisation which was discussed at the recent Colonial Conference.

2. It was resolved at the Conference that, if necessary, a subsidiary Conference should be held to discuss the matter, but the Home Secretary stated, that if that resolution were adopted, it would be for His Majesty's Government to consider, in the light of the views expressed by the Colonial representatives, what alterations could be made in the draft Bill laid before the Conference, after which the further discussion of the matter could be carried on by the subsidiary Conference.

3. Lord Elgin has now decided, with the concurrence of the Home Secretary, the Secretary of State for Foreign Affairs, and the Secretary of State for India, that an Inter-Departmental Committee of representatives of these three Departments and of the Colonial Office should be appointed to discuss the amendment of the draft Bill. When the recommendations of the Committee have been received and considered by His Majesty's Government, the modified Bill will be forwarded to the Colonial Governments represented at the Conference, and they will be requested to authorise their High Commissioners and Agents-General in this country to confer with the members of the Inter-Departmental Committee with the object of arriving at a general agreement on the subject of naturalisation.

4. It is proposed that the Inter-Departmental Committee shall be constituted as follows:—

Sir M. D. Chalmers, K.C.B., C.S.I., Chairman and representative of the Home Office.

Mr. W. R. D. Maycock, C.M.G., representing the Foreign Office.



Mr. S. G. Sale, representing the India Office.  
Mr. H. W. Just, C.B., C.M.G., representing the Colonial Office, with  
Mr. W. A. Robinson, of the Colonial Office, as Secretary.

5. Lord Elgin is glad to appoint you to serve in the capacity above indicated, and I am to request you to be good enough formally to intimate your acceptance. The sittings will be held at the Colonial Office, and copies of the papers on the subject are being forwarded to you under separate cover.

I am, &c.,  
FRANCIS J. S. HOPWOOD.

#### XIV.

#### Naval Defence. Australia and New Zealand.

40505

No. 152.

#### AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 18th November, 1907.)

[Copy to Admiralty, 20th November, 1907.]

[Answered by Nos. 155 and 158.]

(No. 249.)

Commonwealth of Australia, Governor-General's Office,  
Melbourne, 16th October, 1907.

MY LORD,

I HAVE the honour to transmit, herewith, a copy of a despatch addressed to me by my Prime Minister, on the subject of the naval defence of Australia.

2. I invite your Lordship's attention to paragraph 10 of the Prime Minister's despatch, from which it will be gathered that Ministers will be glad if the matter can be laid before the Lords Commissioners of the Admiralty without delay, and commended to their immediate and favourable consideration.

I have, &c.,

NORTHCOTE,  
Governor-General.

Enclosure in No. 152.

(P. M. 07/4466.)

MY LORD,

Melbourne, October 16, 1907.

I HAVE the honour to request that Your Excellency will communicate with the Secretary of State for the Colonies inviting him to refer the Admiralty to my despatch of the 28th August, 1905,\* of which, for greater convenience, I enclose a copy.

2. The subject therein dealt with has been fully and thoughtfully considered during the period which has elapsed since it was written, not only by Ministers here, but also during the recent Conference in London, where I had the great advantage of personally discussing the matter with Lord Tweedmouth and the Heads of his Department.

3. Speaking generally, the further consideration which has been given strengthens the conclusions put forward in 1905, particularly those in which I dwelt upon the fact that at present none of our grant is applied to any distinctively Australian purpose, while our contribution would seem in part repaid if we were enabled to take a direct and active part in the protection of our shores and shipping. Our sole aim then, as now, was that of uniting with the mother country in the necessary preparations for national defence, and the scheme I have lately submitted

\* See page 69 of [Cd. 3524].

included a method of sharing in the duty of naval defences by means of a contribution of Australian seamen instead of money, which is allied to the provision for the selection and partial training of the crews engaged in the proposed steamer service as members of the Royal Naval Reserve formerly submitted.

4. As the replies received to the despatch of 1905, which appear also on the paper enclosed, expressed disapproval of the special suggestion then put forward, the Government now invite reference to that part of the despatch of the 23rd May in which the Lords of the Admiralty intimate that other aspects of the matter might be viewed with favour. A specially suitable opportunity for discussing these was presented in connection with the London Conference, when the whole question was generally reviewed as far as practicable, considering the limited time at our disposal. Lord Tweedmouth, speaking on behalf of the British Government, was most generous, and Ministers have confidence that the proposals now put forward by the Commonwealth in consonance with his suggestion will be adopted upon the advice of the Admiralty.

5. It was my intention, on returning, to take immediate steps to give effect to the general understanding arrived at in London had not personal disabilities prevented me from giving it until recently the close attention which its details demand. After several conversations on the subject between the Minister for Defence, on behalf of the Government, and His Excellency the Admiral, whose freely given assistance has been most highly valued, His Excellency was asked to telegraph to the Admiralty the proposals of this Government with reference to the Naval Agreement of 1903. The telegram which I sent to Admiral Fawkes was as follows:—

"Confidential. In pursuance of my conversation Tweedmouth and the Admiralty in London, and Ewing's conversation with Your Excellency, please telegraph to Admiralty enquiring whether following proposals approved for amendments in Naval Agreement substituting for present Commonwealth subsidy offer one thousand seamen, Australians if possible, to be paid by Commonwealth for service in Navy on this station estimated cost of about £100,000 to Commonwealth per annum remainder of present subsidy to be applied by Commonwealth to submarines or destroyers or similar local defences as suggested London Conference. Two cruisers P or superior manned by 400 of the 1,000 Australians to be retained Australian coast peace or war. Loan of two P cruisers or superior to be maintained by Commonwealth for training local naval militia at estimated cost to Commonwealth of £60,000 per annum. This proposed amendment is in addition to Commonwealth vote this year £250,000 for naval harbour and coast defence, and £50,000 for fortification harbours."

6. To a subsequent enquiry by the Admiral as to whether any Australian Naval Reserve that might be kept up would be included in the Naval Militia, a reply was sent that it had been agreed in London that this Government would take over the Naval Reserve in Australia.

7. The Parliament of the Commonwealth is now sitting, and members anticipate that before they rise the proposals of the Government in regard to naval defence, or at least a complete outline of them, will be submitted for their consideration. The matter is, therefore, urgent, and it was hoped that some general indication of approval by the Admiralty of the principles of the proposal forwarded, perhaps coupled with criticism of some portion of it, might have been given by cable. The suggestions were made in the same spirit as that which inspired the despatch of August, 1905, and were intended as a groundwork which might become the basis of a formal proposal to be conveyed by despatch.

8. I am writing this now expecting that it will reach England in time to be considered in connection with the cable message from the Admiral, and for the purpose of supporting the proposals therein made. These have been evolved, and are now put forward, in the belief that they will form a means of promoting and enlarging that national co-operation and fostering that stronger sense of mutual support alluded to in my former despatch.

9. That communication concluded with a statement that the very life of the Empire depends on the navy, and pointed out the necessity for taking every step possible to increase our maritime strength to enable us to meet all emergencies that international difficulties may create. That opinion becomes more deeply rooted in view of the consistent efforts of rival foreign Powers to increase their influence. It is



the conviction of Ministers that our proposed expenditure on defensive craft, which, while satisfying the desire for a visible and ever-present means of immediate protection, would yet be capable of effective employment in co-operation with His Majesty's larger ships upon our coasts, would materially foster the desire among our people for a sea career, and so increase our maritime resources in a direction in which improvement is greatly needed.

10. I shall be glad if Your Excellency will request that this communication be forwarded to the Admiralty without delay, and will commend it to their immediate and favourable consideration.

11. If the scheme suggested is approved, some amendment will be necessary in the Naval Agreement of 1902, which forms the schedule to our Naval Agreement Act of 1903. Article VIII. will require to be recast, and some minor alterations made in Articles V. and VII., and perhaps XII., but the precise form can be settled later.

12. Perhaps the Secretary of State will suggest to the Admiralty that they should submit a draft of any amendments necessary to give effect to the foregoing proposals.

I have, &c.,  
ALFRED DEAKIN.

Governor-General  
His Excellency  
The Right Honourable Lord Northcote, G.C.M.G., G.C.I.E.,  
&c., &c., &c.

42597

No. 153.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 8.35 a.m., 6th December, 1907.)

TELEGRAM.

[Answered by No. 155.]

Parliament about adjourn Christmas Session. Ministerial Defence policy promised before rising; they are most anxious to receive immediate reply by telegraph to my despatch, No. 249, 16th October,\* in relation to Naval Agreement.—NORTHCOTE.

43015

No. 154.

AUSTRALIA.

ADMIRALTY to COLONIAL OFFICE.

(Received 9th December, 1907.)

[Answered December 14 by 43015: not printed.]

SIR,

Admiralty, 7th December, 1907.

I HAVE laid before my Lords Commissioners of the Admiralty your letter of the 20th November, No. 40505,† forwarding copy of a despatch\* from the Governor-General of the Commonwealth of Australia submitting certain proposals on the subject of the naval defence of Australia put forward by the Prime Minister of the Commonwealth Government.

2. These proposals are to the effect that the contribution at present payable by Australia under the Naval Agreement should cease to be credited to the Imperial

\* No. 152.

† Not printed.

Exchequer and in lieu be appropriated partly to the maintenance of a force of 1,000 seamen, Australians if possible, for service in Australian waters, and partly to the construction, equipment, and maintenance of "submersibles or destroyers or similar local defences" as suggested at the London Conference; while the Imperial Government should maintain in Australian waters, in peace or war, two cruisers of a certain standard to be manned by 400 out of the 1,000 seamen mentioned above, and should also lend two cruisers of a certain standard for training purposes, these cruisers to be maintained at the cost of the Commonwealth.

3. The first part of these suggestions is in accordance with the general understanding arrived at with Mr. Deakin at the Colonial Conference. It was understood that it would be more congenial to Australian feeling that the Australian contributions should be appropriated to furthering local naval defence than be applied as under the existing agreement, and 1,000 men were mentioned as roughly the number of men connected with that local force for whom Australia would have to provide if the agreement were terminated. But no proposal was made for the permanent retention of cruisers in Australian waters at the cost (with the exception of the crew) of the Imperial Government, nor was anything definite put forward as to the loan of two other cruisers.

4. At the Conference the position taken up by the Admiralty was that while they did not themselves propose to cancel the agreement with Australia and New Zealand, yet if the Colonial Governments desired that it should be terminated, they would be prepared to co-operate with them in carrying out that policy; it was admitted that, so long as the agreement was not cancelled, the Admiralty were precluded from making such a disposition of His Majesty's ships in the Far East as strategical considerations alone would dictate, and, therefore, the first condition of any new arrangement must be the cancellation of the agreement. It was considered that Mr. Deakin clearly understood that under the arrangement proposed to be substituted for the existing Naval Agreement the Admiralty would not be bound to maintain particular ships permanently in Australian waters, although he expressed the hope that the visits of squadrons to Australia would not cease, but that from time to time the people of Australia would have the opportunity of seeing in their ports the ships of the powerful united fleet composed of the three squadrons of Australia, India, and China.

5. My Lords, therefore, while anxious to meet the wishes of Mr. Deakin and his colleagues as much as possible, are not prepared to depart from the position taken up at the Conference. If the Commonwealth Government decides that it is desirable to cancel the existing agreement and substitute another arrangement, their Lordships are ready, to the best of their ability, to advise and assist in carrying out, either the scheme sketched by Mr. Deakin while he was in England, or an approved modified scheme for local defence which may appear to be preferable, provided that such a scheme does not involve a definite pledge to maintain particular vessels permanently in Australian waters.

6. If such a pledge is an integral condition of the new scheme now proposed by Mr. Deakin, it will become necessary to reconsider the question as a whole. Further, the other details of the scheme are not put forward with that completeness that would be requisite if they are to be regarded as the basis of a new arrangement with the Commonwealth Government; accordingly my Lords cannot express a decided opinion upon the scheme, nor are they able to formulate the terms of any definite agreement, as suggested in the last paragraph of Mr. Deakin's letter enclosed in the Governor-General's despatch.

7. It must be understood that no increase of expense to the Imperial Exchequer beyond that involved in the existing agreement can be entertained, and that it is regarded as essential that complete control by the Commander-in-Chief over the local naval force in time of war must be secured to the Imperial Government.

8. I am to add that, before any definite action is taken, it will be necessary to ascertain what view the New Zealand Government may take of any proposed change in the Naval Agreement, to which the Dominion has hitherto been a party.

I am, &c.,  
W. GRAHAM GREENE.



42597

No. 155.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Sent 4.30 p.m., 7th December, 1907.)

TELEGRAM.

[Answered by No. 156.]

Referring to your telegram of 6th December,\* Lords Commissioners of Admiralty point out that scheme proposed in your despatch, No. 249,† goes beyond general undertaking arrived at during Conference.

After full consideration they regret that they cannot accept these proposals as they stand as basis of new agreement in substitution for Naval Agreement.

They adhere to the position taken up at Conference that, while they did not themselves propose to cancel the existing agreement, they were prepared to co-operate with the Colonial Governments if an alteration was desired by them, but so long as the existing agreement is not cancelled the Admiralty is precluded from making the necessary strategical dispositions of naval forces, and, therefore, the first condition of any new arrangement must be the cancellation of the agreement.

The Admiralty fear that they are not in a position now to express an opinion on the details of the scheme, which has not been yet put forward in sufficient detail to form the basis of a new arrangement.

Your Premier appeared at Conference to realise that under the scheme then sketched by him the Admiralty would not be bound to maintain any particular ships permanently in Australian waters, and their Lordships are prepared to advise and assist in carrying out either the scheme submitted by Mr. Deakin at Conference or an approved modified scheme for local defence, provided that such a scheme does not involve a definite pledge to maintain particular vessels permanently in Australian waters.

Before any definite conclusion can be arrived at, it will be necessary to ascertain the views of New Zealand Government as to any proposed alterations, and, further, the Admiralty desire it to be understood that no increase of Imperial expenditure beyond that involved in the existing agreement can be entertained and regard it as essential that complete control in time of war over local forces must be secured to Commander-in-Chief.—ELGIN.

42983

No. 156.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 9th December, 1907.)

TELEGRAM.

[Copy to Admiralty, 9th December, 1907. L.F.]

[Answered by No. 157.]

Referring to your telegram of 7th December,‡ have received Minutes from my Ministers to the following effect:—

Secretary of State's telegram, "Naval Agreement," received with thanks for prompt reply. Ministers are unable to gather, firstly, assuming existing agreement cancelled, what amendments Admiralty propose in new agreement in addition to those mentioned in Governor-General's despatch, No. 249, dated 16th October,† paragraph 11, enclosure; secondly, in what respects their proposal goes beyond general understanding at Conference; or thirdly, beyond any scheme submitted by Deakin at Conference.

Ministers wish to know if allusion to particular ships maintained permanently Australian water refers to anything more than cruisers manned by

\* No. 153.

† No. 152.

‡ No. 155.

Australians, also what increase of Imperial expenditure is involved if their proposals are accepted. Control over vessels built and maintained at Commonwealth expense must rest with its Parliament, which would place it under Commander-in-Chief whenever that was deemed necessary.

Ministers hope the scheme by which these vessels would be maintained at standard of Royal Navy, both their officers and men being trained in and passed through Navy when not serving on Australian coast, would mean creation efficient auxiliary force of value to the Empire and precedent for other Dominions.

New Zealand has been informed of the proposals and will be again communicated with on receipt of reply to this.

—NORTHCOTE.

43463

No. 157.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Sent 5.8 p.m., 13th December, 1907.)

TELEGRAM.

[Answered by No. 160.]

With reference to your telegram of 9th December,\* Lords Commissioners of the Admiralty desire to say that proposal for amendment of existing Agreement does not meet the case. If Agreement is cancelled any further arrangement must be subject of future negotiation after proposed scheme has been fully elaborated. There was no provision in the scheme indicated by Mr. Deakin when in England for retaining permanently or loaning indefinitely cruisers for Australian local service.

Allusion to retention of particular ships includes all four cruisers now asked for.

Ministers' proposals, for reasons before stated, cannot be accepted. In absence of details increase of expenditure cannot be estimated, but in any new arrangement there must be general understanding that cost entailed by present Agreement is not exceeded.

Control by Commander-in-Chief of Australian flotilla in time of war considered indispensable on account of probable international difficulties as well as for strategic reasons generally. Such control would not, however, necessarily mean removal of flotilla from Australian waters.—ELGIN.

43015

No. 158.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(No. 315.)

MY LORD,

Downing Street, 13th December, 1907.

I HAVE the honour to inform you that I have, in conjunction with the Lords Commissioners of the Admiralty, given very careful consideration to the proposals contained in your despatch, No. 249, of the 16th October,† on the subject of the naval defence of Australia.

2. You will have learned from my telegrams of the 7th and 13th instant‡ that the Lords Commissioners regret that they cannot accept these proposals, as they stand, as the basis of a new arrangement in substitution for the existing Naval Agreement.

\* No. 156.

† No. 152.

‡ Nos. 155 and 157.



3. I have now to enclose, for the information of your Ministers, copy of a letter\* from the Admiralty, the substance of which was communicated to you in my telegram of the 7th instant.

I have, &c.,  
ELGIN.

43015

No. 159.

NEW ZEALAND.

THE SECRETARY OF STATE TO THE GOVERNOR.

(No. 114.)

MY LORD,

Downing Street, 13th December, 1907.

Gov.-Gen. Australia, No. 249, Oct. 16.  
Admiralty to Colonial Office, Dec. 7.  
Telegram to Gov.-Gen. Australia, Dec. 7.  
Gov.-Gen., Telegram, Dec. 9.  
To Gov.-Gen., Telegram, Dec. 13.  
To Gov.-Gen., No. 315, Dec. 13.

I HAVE the honour to forward, for the information of your Ministers, copies of correspondence† with the Governor-General of Australia and the Admiralty, as noted in the margin, regarding certain proposals made by the Commonwealth Government for the modification of the existing Naval Agreement.

I have, &c.,  
ELGIN.

44065

No. 160.

AUSTRALIA.

THE GOVERNOR-GENERAL TO THE SECRETARY OF STATE.

(Received 2.25 p.m., 17th December, 1907.)

TELEGRAM.

[Answered by Nos. 165 and 168.]

Referring to your telegram of 13th December,‡ Naval Defence, have received minute from my Ministers to the following effect:—

Thanks for cable. Not clear why amendment proposals suggested despatch 16th October§ cannot be adapted to meet your wishes. Commonwealth does not desire increase your liability, but suggest diversion part of its payments to other means of naval co-operation of great advantage to Empire while also largely adding to its independent naval outlay. Desire to be informed in what direction elaboration of details necessary before proposals can be considered. Admitted that retention of four P cruisers Australian waters not put forward in England. Proposed after consultation with Commander-in-Chief Australian Station who raised no objection to their submission to you. If request P cruisers put aside are Admiralty prepared to accept Commonwealth proposals to provide thousand men and spend balance upon local vessels in lieu of subsidy? Assume control by Commander-in-Chief required in relation to these vessels ceases at termination of agreement. Assume that if cancellation essential this would not take place until terms new agreement for period still to run have been agreed upon.

—NORTHCOTE.

44065

No. 161.

AUSTRALIA.

COLONIAL OFFICE TO ADMIRALTY.

[Answered by No. 166.]

SIR,

Downing Street, 20th December, 1907.

WITH reference to the letter from this Department of the 14th instant,|| I am directed by the Earl of Elgin to transmit to you, to be laid before the Lords Commissioners of the Admiralty, copy of a telegram¶ from the Governor-General of the

\* No. 154.

† Nos. 152, 154, 155, 156, 157, and 158.

‡ No. 157.

§ No. 152.

|| 43015 : not printed.

¶ No. 160.

Commonwealth of Australia respecting the Australasian Naval Agreement, and to enquire what answer should in their Lordships' opinion be returned to it.

Lord Elgin would suggest that probably this telegram cannot well be answered by cable, and that it may be better to send full explanations by despatch on the several points raised.

I am, &c.,  
C. P. LUCAS.

2224

No. 162.

AUSTRALIA.

THE GOVERNOR-GENERAL TO THE SECRETARY OF STATE.

(Received 20th January, 1908.)

[Answered by No. 167.]

(No. 317.)

MY LORD,

Governor-General's Office, Melbourne, 18th December, 1907.

I HAVE the honour to inform Your Lordship that on the 13th instant, in a speech in the House of Representatives, my Prime Minister explained the policy of the Government in relation to the Defence question.

2. The speech will be found in the Parliamentary Debates, two copies of the proof of which (No. 48) are forwarded to Your Lordship this day under separate cover. A set of the loose sheets of the speech is appended hereto.

I have, &amp;c.,

NORTHCOTE,

Governor-General.

Enclosure in No. 162.

DEFENCE POLICY.

MR. DEAKIN (Ballarat—Minister of External Affairs) [6.2].—In pursuance of an undertaking given more than once this session, that the policy of the Government in relation to Defence would be submitted to the House before the Christmas adjournment, I take this opportunity to lay our scheme before honourable members. The fact that there is necessarily a small attendance in this last hour of our session this year imposes no disability, because the remarks I desire to offer will consist largely of quotations and figures, rapidly summarised, and, therefore, best studied in print. While it is physically impossible to deal with the whole defence question as it deserves, I shall endeavour to touch, however lightly, upon those many aspects which cannot be omitted without prejudice to a general outline. One of the chief reasons for the union of our States was the need of a common defence; but, until now, we have been content to take the course of expediency, and although there has been combination and re-construction, the land and sea forces of the Commonwealth are still little more than the collective forces of the States. We now propose a new organization for the defence of Australia. Therefore, we are about to initiate a departure, contemplated at the inception of Federation, and intended to lay the foundation of our defence upon a basis as wide as the Commonwealth, without distinction of States. This House has just completed its task of dealing fiscally with the industrial conditions of the country as a whole, and it is appropriate that we should proceed to deal nationally with its defence. I am, to a certain extent, in sympathy with the honourable member for Wide Bay, who, by interjection, inferentially deplored expenditure on warlike preparations. It is not because we admire, or desire, offensive warfare that great proposals are now to be submitted for the consideration of Parliament. That we should require to take thought for the morrow in this regard is, to the thoughtful, occasion for inappeasable regret. The enormous annual expenditure of modern nations, severally jealous of each other's possessions and privileges, foreseeing the contingency that they may become involved in deadly conflict, though unhappily an evident necessity, presents humanity in a stage of its evolution which cannot be regarded with pride or satisfaction. To-day the civilized world, and the uncivilized, too, consists of armed nations. Its leading nations are arming with more feverish haste than ever before, and, unhappily, the pace set by the foremost is that with which every people, desiring to protect itself from loss and aggression, must attempt to keep step. This has been termed cut-throat competition; and it is accurately so described. But as no one will suspect Great Britain, or still less one of her dependencies, of seeking to quarrel with her neighbours, or of



harbouring bellicose designs, we shall be believed when we say that our military preparation is strictly for defence, and with no threat of foreign offence. An obligation is cast upon us to protect the territory with which we have been intrusted, and the fortunes of our kindred who share its responsibilities with us; as our territory is part of the Empire, we are in a measure responsible to all its units across the seas to become to them a source of strength and not of weakness. There was a time, not long since, when it was confidently maintained that Australia was outside the area of the world's conflicts, and might regard with comparative quietude any hostile movements in other parts of the globe. That comfortable outlook has long since passed away. No one can contend that Australia is outside that arena to-day. On the contrary, every decade brings us into closer and closer touch with the subjects of other peoples planted in our neighbourhood, and with the interests of other peoples more or less antagonistic to our own. Consequently being compelled by the very circumstances of our time and situation to recognise the active lust of conquest existing not only in the industrial but in the national sphere, we must now prepare ourselves to resist the deadlier weapons which are employed in the realm of battle. I would not wish to suggest that naval and military discipline are so to speak a dead loss. On the contrary, we must admit that in many respects they both make for physical well-being and to a certain extent, especially in the Navy, for a moral and intellectual tempering. There is some counterbalancing consideration in that regard. Nor can we fail to recognise that, in many cases, preparations for strife are dictated by high and noble motives. But what I do urge is that the best results from military training are to be obtained in a citizen army exactly in the proportion in which it is a citizen army. When men rally round their hearths and homes simply to safeguard them and those they love, they discharge a duty. They serve peace and justice. The obligation upon all of us is that we should at least hand down to our children the heritage that we ourselves received at birth, undiminished and improved as far as has been possible within our compass. Any preparation for war in our case is for a war of resistance; we prepare for war, in point of fact, only to preserve peace. This is the policy of the Commonwealth. Possessively, the Commonwealth has very much to defend. Taking the lower standard one finds that the wealth of Australia has been variously estimated at from £1,000,000,000 to £1,200,000,000. To-day that enormous treasure is placed in the keeping of a handful of population. While we spend annually for the purpose of defence one out of every thousand pounds so reckoned, we certainly cannot be accused of anything but the severest business economy of insurance. But obviously it is not upon the lower standard that we are able to measure our risks. If we lost the whole of our financial possessions we should miss them much less than if we were robbed of liberty, constitutional freedom, civilization, and social status. One hesitates even to consider such prospects, and yet one must recollect that there are grave contingencies to be kept in view, if it be only at the back of our minds. None of us can conceive Australians in serfdom, or subject to an alien rule. Although the incredible consequences that would follow from the obliteration of our race and nationality cannot be compassed by the imagination, we can never forget that what we have most to defend first and last is our national life and ideals—more precious than life of the breathing frame. For our defence to-day we spend on the basis of the Estimates for the current year about 6s. per head of our population. Allowing for the pension system in the United States of America their outlay on defence is nearly thrice as large, that of Germany and of France is more than thrice as large, whilst the expenditure in Great Britain is more than twice as much as the German, and nearly twice as much as the French. We cannot therefore be accused of undue extravagance. What we are spending is not in covetous rivalry but for the sake of security. What we endeavour when spending is to obtain value for our money. What we seek is not the development of what is sometimes termed a military, as distinguished from a martial, spirit. What we aim at is the maximum of good citizenship, with the spirit of patriotism as the chief motive power of a civic defence force. For always, behind the weapons, behind the organization, behind the gun, there is the man. It is in the character and capacity of its manhood that the real strength and energy of resistance of a people must be found.

Mr. CROUCH: And that is where we come in.

Mr. DEAKIN: When we do go in we must come out well. In this country we accept the minimum of professional militarism strictly so-called, and in considering our national policy generally we require a maximum of navalism, if I may coin such

a word. After all, the British Empire itself and all its parts depend for their unity and guarantee of freedom upon the Navy. That is its first line of defence, and we in Australia are distinguished in this particular, because we must rely more upon it than any other part of the Empire. Ours is an island continent, and its best defence will be that which prevents an invader from ever setting his foot upon our shores. Now, naval discipline and training differ in character very largely from military training and discipline. The former is much more specialized on shipboard, and even naval militia demand far more training to reach a modern standard of efficiency. Still we have every reason to believe that the national instinct of the sea lives in our section of the race as much as in any other. Certainly every report we obtain, and every evidence we acquire, proves the success of our sailors in the Australian Squadron, and in the examinations and tests with men of the Royal Navy in the Mother Country. All go to show that they are maintaining the reputation of this country, standing well above the average standard achieved even in the finest navy the world possesses. But when asking you to make a far larger provision for naval development than has ever been attempted here, we require to recollect at the very outset that we owe to naval power and to the British flag our freedom in, and ownership of, this territory, the power to retain it, the whole of our political liberties, and social standards. The Commonwealth is governed by a policy appropriately termed that of a "White Australia" because the "white ensign" flies all round our coast. Withdraw that and peril would be instant. The Mother Country, though still "Mistress of the Seas," submits to have some of the fleets of battleships by which her coasts are guarded, occasionally distant from that base. But still those remaining afford her a measure of protection only to be obtained in our case by what would be distinctly termed coastal defence. The squadron in these seas may at any time be removed to the China or Indian Seas. When a parallel is sought to be drawn between her circumstances and ours, this contrast requires to be taken into account. Needless to say, our immense area means a long coast-line, and, therefore, the protection of Australian shores, quite apart from any attempt to share in operations upon the high seas, implies a great burden of responsibility. We are often taunted with paying no adequate share of the cost of, and with taking no part in naval defence on the high seas by, the battle-ships. But, although since 1887 I have been engaged, with others, in considering various methods for the measurement of the responsibilities of the several portions of the Empire in regard to the maintenance of its flag upon the world's oceans, I have never yet, either by one standard or by any combination of standards, been able to arrive at, or find any one else who has arrived at, a plan which is ripe for practical consideration. I propose, therefore, to pass by that part of the subject. It is not because we deny the main tenets of the "blue water" school. We admit that the sea is one all the world over, and that, therefore, the navy on the high seas must also be one in direction and command all the world over. But what we point to is that our problem of naval defence, putting aside the question of our share in the defence of the high seas, is a special problem to be viewed in the light of our special circumstances. This will be a principal element in shaping the local naval proposals which I shall presently disclose. Let me merely say, in passing, that any personal knowledge I have gained, either by reading or observation, encourages me to believe that, whatever signs of decadence may be discovered by critics in the Mother Country or in any of her departments, the Navy stands out as an exception. It is a distinctly up-to-date force, constantly adjusting itself to fresh conditions, whose officers and men prove on every occasion of trial that they retain, with the dauntless courage of the race, its natural adaptability, not only to the ancient wooden ships of the line, but to the curiously deformed modern structures of enormous interior complexity and deadly power constituting the Navy of to-day. No spectacle in England was, or could be, more impressive either to her own people or to those of us from overseas than that which was lately witnessed at Portsmouth. There in the Channel one saw the "fleets in being" gathered together, realizing by aid of the eye what their potency actually is. Dreadful thunders were locked within those iron hulls, fitted and finished within almost as delicately as a watch, containing every modern improvement, the latest developments of telegraph and telephone, every agency that can protect the crew or destroy a foe, all apparently in perfect condition and under absolute command. The British Navy is a proud and progressive service, not content to rely upon its past laurels, unequalled as they are, but pushing insistently



forward, keeping in its iron grip the priority it has held for centuries. Such considerations as these will explain something I have yet to say in due time with regard to what that Navy may mean to us hereafter. We have also to be reminded that the latest vessels of war—battle-ships, armoured cruisers, submarines or submersibles—from their greatest to their more diminutive sizes, make to-day far heavier and far more general demands on brain, nerve, and hardihood than were ever made in "the brave days of old." The intricacy and variety of their many mechanisms, enormous powers of speed, weight of projectiles and rapidity of firing with the immense range of their weapons of war—require such expert knowledge and training, such readiness of decision and promptitude of action, that they impose a strain upon their crews which would be simply inconceivable to our fighting forefathers who won the splendid sea fights at the beginning of the last century. To-day the Navy—always a service for young men, and consisting, except in positions of the highest command, of men under forty years of age, or very little above it—is to a still greater degree in the smaller craft with their more delicate pieces of mechanism, passing into the hands of young men. The submarines or torpedo destroyers, owing to their fragility and high speed, fulfil their regular functions under circumstances of danger, which, in war, when every pulse of the men and the mechanism is at high tension, would be immensely increased. The pressure upon the nerve, courage, and capacity of each unit and upon every man in the British marine is far higher now than it has even been, and still tends to increase with every one of the marvellous advances which science is making. To preserve naval efficiency under novel conditions such as these imposes much more arduous obligations than at any period in the world's history.

Sitting suspended from 6.27 to 7.45 p.m.

Mr. DEAKIN: The question of defence, as seen from Australia, falls naturally into three parts. The first relates to the command of the high seas, the next to the protection of our coasts, and the last, to our power to hold our own territory against invaders. For the first, we rely on the Imperial Navy, with its battleships and heavy cruisers, the radius of whose operations, and artillery, is being extended year by year. Our second line of coastal defence has had hitherto a varying history; and as to the land defences which must repel invasion, I shall speak presently. On what may be termed the Imperial line of defence on the high seas, as I have pointed out, our share of responsibility must be estimated hereafter. At the very outset of the recent Colonial Conference in London, the Prime Minister of Great Britain met us with the frank avowal that the British Government preferred no claim for money in relation to naval defence, and went on to add the extremely pregnant statement that the control of naval defence and foreign affairs must always go together. If honourable members appreciate the force of that axiom, they will see that it implies much, both now and in the future. It implies that for the present, seeing that we have no voice in foreign affairs, we are not obliged to take any part in Imperial naval defence. It implies, also, with equal clearness, that when we do take a part in naval defence, we shall be entitled to a share in the direction of foreign affairs. But, in regard to the immediate situation, nothing could be more explicit. As we are in every respect outside of the domain of the foreign affairs of the Empire, and without any voice in the making of war or peace, so we remain for the present outside all responsibility for any naval defence on that score. But the question from our point of view cannot end with any such axiom. In order to mark the change which has come over the policy of British Governments in regard, first of all, to our political relations to the defence problem, and next in regard to the measure of defence which falls to our lot, allow me for a moment to refer to a few incidents in our own history. It was at a Conference in 1881 that the Premiers of the Australian Colonies put forward for the first time a definite doctrine of our mutual responsibilities. The whole naval defence, they said, should rest with the Imperial Government, while the military defence of the land, including the forts for harbour protection, should rest with Australia. That, so far as I remember, was the first definite doctrine laid down as to the division of the task of defence. The Premiers of Australia, on laying down that doctrine, demanded that, as part of the Imperial naval defence, there should be a squadron of Imperial ships set apart for the defence of our coasts. The Admiralty replied, declining to admit that responsibility, unless Australia paid the whole expense of maintaining the squadron, and even expressed a desire that we should pay the cost of building them. Nothing was done. Then came, in 1885, Admiral Tryon's scheme; and in 1887, at the first Colonial Conference held

in London, a compromise was arrived at, by which a squadron of Imperial ships was set apart for Australia on condition that we shared the cost. The only change that occurred in 1902, when the third Colonial Conference was held, was that the Admiralty pressed hard for an immensely larger contribution than had been previously paid; and it was only after a great deal of bargaining that they consented to accept about half their original demand. Our Australian Naval Agreement Act embodies the arrangement then arrived at. At the same time, instead of being restricted, as before, to Australian waters, the new squadron was permitted to operate in the Australasian, Indian, or China seas. The only Australian characteristic of this squadron was that two of the vessels were to be manned by Australians, who were to receive extra pay. In 1903, in consequence of that Conference, the Act to which I have referred was passed. It sets out, in set terms, that its basis implies a single navy under one authority, and that the squadron, though called Australian, is to be stationed wherever the Admiralty believe it to be most effective for the defence of our trade and interests. At the same time, it is provided that Australia shall be treated as a base for coal and supplies. This Act, as honourable members will recollect, was passed only after protracted discussion. The Admiralty were not satisfied with the contribution made, and a section of our people were not satisfied with the bargain from our side. Consequently, when, in 1905, Admiral Fanshawe delivered several speeches, and one in particular in which he pointed out the insufficiency of our contribution, I took occasion in August of that year to write to the British Government a despatch challenging his contentions. I pointed out that there was nothing distinctively Australian in the Naval Squadron maintained in these waters, that our support to it had been given in default of better means of co-operation, and that, being in no sense specifically associated with us, it roused no patriotic feeling. No exception was taken to the existence of a Naval Agreement between the British Government and ourselves; on the contrary, that was postulated. But exception was taken to the fact that our contribution was made in money, and only indirectly in men, when they entered the ships of the squadron. In no other way were they connected with us, or representative of us. My objection was that Australia's part in this agreement was simply to find a certain contribution in money, and my suggestions were that we ought to substitute some active co-operation for this mere cash payment. In 1906 the Admiralty, by despatch, dissociated themselves altogether from Admiral Fanshawe's expressions of dissatisfaction. In October of that year, having in view the then impending Colonial Conference, amongst the resolutions I prepared was one asking reconsideration of the Naval Agreement. It will be found on reference to page 132 of the reports of that Colonial Conference, that, in the course of the debates, I verbally called attention to the same defects, from my point of view, in that Agreement. I contended that the monetary standard was not the most acceptable for an Australian contribution, and that some other form of co-operation was necessary; that, in its present form, the Agreement was not so popular as it ought to be, considering the great popularity of the British Navy—that, in short, the Agreement was not satisfactory to anyone, and had been accepted only until a better means of united action could be devised. But shortly before the Colonial Conference opened, a debate occurred in the House of Commons, in which a speech by Mr. Balfour, followed by its indorsement on behalf of the present Government, exhibited an entire change of front on the part of the British Parliament, so far as the political side of this question is concerned. It was then intimated in the clearest terms that so far as the British Parliament was concerned it would make no further demands of any kind upon us in connexion with Imperial Naval Defence. The statement of the Prime Minister, Sir H. Campbell-Bannerman, that naval defence and foreign affairs must go together was made at the opening of the Imperial Conference in April last. That axiom exactly summed up the effect of the debate in the Commons. At our subsequent meetings, Lord Tweedmouth, who represents the Admiralty in the Government, plainly said—

Speaking for Great Britain and the British Government, we are responsible.

Upon page 129 of the report of the proceedings of the Conference it will be found that he uttered these memorable words—

We want you to give us all the assistance that you can, but we do not come to you as beggars; we gladly take all that you can give us, but at the



same time, if you are not inclined to give us the help that we hope to have from you, we acknowledge our absolute obligation to defend the King's Dominions across the seas to the best of our ability.

That was a splendidly magnanimous attitude. It was in accordance with the axiom of the Prime Minister. As the logical outcome of that axiom His Majesty's Government frankly declared that, having the sole control of the affairs of the Empire, and the sole decision of peace or war, the whole responsibility for the defence of the Empire—irrespective of what we might give—was their care. Upon page 130, Lord Tweedmouth added—

We are quite ready to enter into any arrangement with the Colonies that may seem most suitable to them, and which may seem to bring advantage to the Navy, and advantage to the Colonies themselves.

Upon page 482, by way of interjection, he summed up the Ministerial position very accurately in the statement—

We shall be willing to take in kind what has been paid in the past in hard cash.

That is to say, they are now prepared to accept the proposal that we previously submitted for a contribution by Australia in kind—a contribution from her own men and her own resources, instead of from our purse. But this broad statement, completely in harmony with the Prime Minister's declaration, was afterwards qualified by certain conditions imposed by Lord Tweedmouth. The consistency of these with the axiom of the head of the British Government is still to seek. We shall keep on seeking until we find a constitutional means of Imperial co-operation. Upon page 129 he said, on behalf of the Admiralty, that what he invited us to do was—

to place confidence in the Board of Admiralty, and in the present Government, for the future safety of the country.

That is to say, we were to place confidence in the British Board of Admiralty and in the present British Government for the future safety of the country. Presumably he meant more by the word "country" than the United Kingdom. He then proceeded to invite us to take some "leading part" in making more complete than it is at present the Naval Defence of the Empire. Afterwards he proceeded to the qualifications. He said—

The only reservation that the Admiralty desire to make is (1) that they claim to have the charge of the strategical questions which are necessarily involved in Naval Defence; (2) to hold the command of the Naval Forces of the country; (3) to arrange the distribution of the ships in the best possible manner to resist attacks, and to defend the Empire at large.

These three very important conditions were followed by the statement that the British Government were responsible for the defence of the Empire, that they wanted us to help them in that defence, but only on the terms mentioned. Again, he said—

I want to claim first your help, and, second, authority to manage this great service without restraint.

Upon page 130 he remarked—

So long as the possession of unity of command and direction of the Fleet is maintained they—

meaning the British Government—

are ready to consider a modification of the existing arrangements to meet the views of the various Colonies.

Once more he said—

The distribution of the Fleet must be determined by strategical requirements of which the Admiralty is the judge.

On page 148 he urged—

Then there is a point which has been alluded to more than once by speakers, and that is the question of the distribution of ships. At this

moment, no doubt we are under certain obligations with regard to Australia, as to the ships that are to be on that particular station. If, in future, as I hope will be the case, there will be greater concentration of the ships, I want it to be very distinctly understood that I do not believe that our Dominions beyond the seas would suffer in any way from such an arrangement.

Again, he declared—

We want to consult with you as to the details of this scheme. Of course, if each separate Colony is to be treated on a different footing, we are quite ready to do that, and to make separate arrangements with each separate Colony according to its own wishes.

These quotations give a good idea of what is expected of us. We are asked to take a "leading part" in making the naval defence of the Empire more complete. Upon page 130 of the report of the proceedings of the Conference, Lord Tweedmouth defined exactly what he hoped would be our part. He said—

It would be of great assistance if the Colonial Governments would undertake (1) to provide for local service in the Imperial Squadrons, the smaller vessels that are useful for defence against possible raids, or for co-operation with the squadron, and also (2) to equip and maintain docks and fitting establishments which can be used by His Majesty's ships. It will further be of much assistance if (3) coaling facilities are provided, and arrangements can be made for a supply of coal and naval stores, which otherwise would have to be sent out specially or purchased locally.

The numbers inserted in the quotations, for convenience, are my own. It will be noticed that our small vessels are to serve "in the Imperial Squadron." Finally, on pages 130 and 131, he made some remarks which are worthy of special note. He suggested that—

If the provision of the smaller craft which are necessarily incident to the work of a great fleet of modern battleships could be made locally, it would be a very great help to the general work of the Navy. You cannot take the small crafts, such as torpedo boats and submarines, across the ocean, and for warships to arrive in South Africa or in Australia or in New Zealand or in Canada, and find ready to their hand well-trained men in vessels of this kind, would be an enormous advantage to them. It would be an enormous advantage to find ready to their hand men well trained, ready to take a part in the work of the fleet. There is, I think, the further advantage in these small flotillas, that they will be an admirable means of coast defence; and that you will be able by the use of them to avoid practically all danger from any sudden raid which might be made by a cruising squadron.

Here our vessels are to be apparently used by us to resist raids, and not necessarily "in the Imperial Squadron." I hope that without wearying the House I have now fairly placed before honourable members the essence of the propositions submitted to us in London by Lord Tweedmouth. Curiously enough, the Admiralty had then arrived at exactly the same position as the Australian Premiers did in 1881. The whole defence of the sea and its control is to be a matter for the British Government and the British Navy. The defence of our shores is to be left to Australia except that there may be a small flotilla of Australian vessels capable of being used by the Navy as a part of its squadron. That represents a political transformation. An equal transformation has taken place in the strategical policy of the Admiralty, which affects us most materially. The old doctrine, so far as I understand it, appeared to be that the strength of the Mother Country was to be asserted by the presence in every important sea of a separate fleet to patrol its waters and to maintain British interests against attack, so that wherever difficulty arose there would be a fleet in that particular portion of the globe prepared for duty. But in recent years the whole view of the Admiralty experts seems to have changed, and although there is still a certain amount of localization of forces the doctrine of concentration has been rapidly developed, and is now being acted upon all round the world. As honourable members are aware, the old fleets of the Empire in Europe and on the American coast—they have been withdrawn from the latter—have been massed. Second or third rate ships have been discarded to the scrap-heap. The most powerful vessels of the old squadrons have been brought together, in order, instead of having a separate fleet in every ocean, and on almost



every coast, to have fleets commanding great areas, consisting of the most powerful vessels, expeditious, and heavily armed, which, when concentrated, are enabled to operate at any particular point with greater effect than was ever attempted before. That is a transformation, as I understand it, of the system of naval strategy which has a great deal of importance for us. There was foreshadowed, in 1903, a sphere of operations for the Australian Squadron enlarged by the addition of the India and China seas. We now know that the fleet usually in Australian waters would be centred in time of war in accordance with the policy of concentration. The best ships of our squadron would be united with the best ships of the India and China Squadrons, and they, operating together, would become responsible for any force anywhere in those three seas. When the first Agreement was sought to be made, in 1881, and was afterwards made in 1887, with the separate Australian Colonies, there was a demand by Australia for the protection of our local shipping by a special fleet, which, though Imperial, was to be in part paid for by us, and was allotted to our coast. That consideration largely disappeared under the Agreement of 1902, and would now, in accordance with present views, disappear altogether. What the Admiralty desire here, in accordance with their policy, is to concentrate the three squadrons in the three Eastern Seas in time of peace. Instead of waiting for those three squadrons to join after a declaration of war, the policy is to unite them and keep them together beforehand. I have here a rough summary of the opinions which I ventured to express in London outside the Conference, adding the wishes of the British Government and of the Admiralty in regard to their present squadrons, including the Australian Fleet. The situation from their point of view and from ours is described in order to prepare the way for a new Agreement which would satisfy the Admiralty as well as the people of the Commonwealth. I said that according to high authority the present subsidized Australian Squadron ought not to be continued, its best ships should be removed and united with those of the Indian and China Squadrons in one joint Eastern Fleet of powerful vessels. If war broke out this would be done at once now, under the Agreement, so that the concentrated naval force in these seas might be brought to bear upon our foe, wherever he might be found; on our coasts, off Japan, or off Colombo. Consequently, the sooner our present squadron can be merged in this joint Eastern Squadron in time of peace, so as to be ready for war, the better from the Admiralty point of view. The £240,000 subsidy paid by Australia and New Zealand does not compensate the Admiralty for its severance in time of peace from the other two squadrons now existing. It would pay the Admiralty to forgo the subsidy and get its best ships in a squadron, free from the limitations imposed by the Australasian Agreement of 1903. While that bargain holds the striking force of the Navy in the East is impaired instead of increased. In the interests of the Empire the Agreement ought to be cancelled, according to the new view, as soon as possible. In the interests of Australia, if they can be considered alone, the same course is necessary. The best defence of this country on the high seas surrounding us can be secured by a joint Eastern Squadron of powerful ships operating wherever necessary. Both the Empire and Australia are therefore losing instead of gaining by the present Agreement. If the three existing squadrons were consolidated so far as their most powerful cruisers were concerned, the rest of the ships now on the Australian station would be left as at present, quite apart from any Agreement. They would patrol the Pacific, conduct surveys, and make their present rounds as they do now. Their base would be in Sydney, where they would use all the accommodation they now possess. They would be seen there and elsewhere on our coasts as occasion required. In addition, the new concentrated squadron would visit Australia say once a year in order that its capitals, which are all on the seaboard, might be kept in touch with the British Navy. This would be the order of things after the Agreement was cancelled, and without any new Agreement being required. Under these circumstances the Commonwealth would devote itself to the defence of its harbours and coasts. It would spend the sums advised by the Committee of Imperial Defence in protecting our harbours by shore works. It would, in addition, add local floating defences. Many authorities strongly urge submarines at each principal port; two at least in Sydney and Melbourne, and one at each of the other capitals, together with some swift ocean-going destroyers capable of patrolling our coasts. Pending the building of the latter perhaps the Admiralty could give us a couple of the best cruisers of the "P" class that they are laying aside in the course of their reorganization. We could man these for the time being with Australians now engaged in the squadron, if they were spared to us for a fixed

period. In any event, whatever ships and men we obtained would be available in time of war in the event of an attack upon our coasts, in order to act with the concentrated Royal Navy Squadron, or any part of it, in our own waters. These submarines and destroyers would afford a very real help to the squadron and be of great value from the point of view of Imperial Defence in these seas. They and the harbour works, &c., would represent a greater naval contribution than the present subsidy. Putting it briefly, as I understand it, the policy of the Admiralty itself is that they regard the present Australian Naval Agreement as an encumbrance which they desire to cancel, in order that their ships may be free from any local conditions whatever; and they will only consent to have their ships limited geographically, as they are by the present Agreement, because of our insistence, and because of the contribution which we make towards their upkeep. But for their own part, the Admiralty are, at least, perfectly willing—some of its advisers are anxious—to be entirely freed from the present Agreement. In the next place, they look forward to the Commonwealth undertaking the defence of its harbours and coasts by a small flotilla such as I have already alluded to and subject to a very important and vital consideration to which I shall presently allude. The plan of naval construction suggested by our local officers, two years ago, has since been reviewed in connexion with the necessary disabilities attaching to any isolated little service of our own, with its costliness and lack of stimulus and training facilities. My view in regard to the flotilla was clearly explained when in London. After quoting what Lord Tweedmouth had said about the value to the British Squadron of submarines or submarines and destroyers in these waters, I went on to insist that these submarines and destroyers, built, manned, and maintained at the sole expense of the Commonwealth, must remain under the control of the Government. Their distribution and movements would be entirely subject to that Government at all times. That is one of the features to which I wish to call the attention of honourable members, because it is supplemented by a novel proposal for directly associating our naval forces with those of the Mother Country. I ventured to press it then, and, as honourable members will see, am still pressing it upon the acceptance of the Admiralty. While feeling that for every constitutional reason, any flotilla created and maintained by the Commonwealth must be under Commonwealth control, I have grown more and more deeply to realize the risks of our attempting to create a small force solely of our own, in which the men and officers would have no hope for experience or advancement except within its bounds. A small flotilla of that description would remain a thing apart, not directly committed to the high standards of the Imperial Navy. In the Imperial Navy, as honourable members are aware, the men and the officers on every station are changed at short periods. Elaborate provisions are made to prevent them becoming hide-bound, sit-at-ease, indifferent, or mechanical. They are transferred from ship to ship. They are put regularly through fresh courses of training. They have to return periodically to learn the latest methods in their particular departments. The consequence is that the Royal Navy is a most progressive weapon, always kept up-to-date, its men constantly in practical training, and always stimulated by competition, by examination, and by every other means which can be applied, in addition to the always powerful incitements offered by frequent prospects of promotion to vacancies in the many fleets of the Empire. I think that the more honourable members reflect upon it, the more they will see how different must be the condition of a little land-locked navy—if one may so call it—of a small flotilla cut off by itself, its officers and men removed from the possibilities of promotion or advancement, except by the slow and often unsatisfactory process of seniority, and with few opportunities for them to keep themselves abreast of the rapid advances made in their branches of the service. I contend, with the diffidence which must attach to a layman, though with some confidence, that the force of these criticisms will be made apparent if you take any country with a small flotilla or a few small ships, and compare these with the same class of ships and the same class of men engaged in larger fleets with larger opportunities, and above all with those of the greatest of maritime powers, the British Navy. I ventured, therefore, to attempt to find a means by which we could get the whole benefit of connexion with the Admiralty and the Imperial fleet, sharing its standards, its training, and its prizes, and yet maintain the Australian character of our flotilla, and so made the suggestion which I now summarize. Let our officers and men be engaged here, under the same conditions as those of the Royal Navy, or be obtained after they have served in the Royal Navy. Let them serve on our local vessels for the usual term on this station, whatever it may be, and then pass into other ships of the Royal



Navy, to continue their training elsewhere. This would keep them, while here, up to a standard of efficiency equal at least to that required everywhere in the Royal Navy. They would remain members of that Navy in every sense, recruited and serving under its laws. Their services in our ships would count in the same fashion as upon similar vessels in the Navy. They would be regularly inspected here by the Admiral or his deputies, and be subject to naval discipline and to all the penalties and privileges associated with such discipline. Australia would pay them, while they were on this station, at Australian rates of pay, though of course they would accept the usual deductions necessary to continue their title to share in the Royal Navy Pensions Fund. Preference would be given wherever possible in our vessels to Australian officers and seamen at every opportunity that occurred. Our ships would fly the White Ensign with the Southern Cross, and be altogether Australian in cost and in political control, as to their movements and stations. In everything else, they would be part of the British Navy, the officers and men being simply seconded for fixed terms for service under our general control; but in every other respect indistinguishable from the men in the Imperial squadrons here or elsewhere. In time of war, they would almost certainly be placed by the Commonwealth Government of the day directly under the Admiral commanding the Eastern Squadron, since he would be the highest naval authority in this part of the world. I doubted in London, and still continue to doubt, if any conditions would be imposed upon this transfer at such a time, but it must be clearly understood that the decision on these points must rest absolutely in the hands of the responsible Government of Australia when the emergency arises. We want the most effective ships and the most efficient men we can get here, with ample prospects of advancement to the latter when they merit it. We also want a flexible relation, as intimate as possible, between our Government and the Admiralty, which shall encourage the development of our local defence to the fullest extent, and in such a form as to supplement to the best advantage the Imperial Navy in our hemisphere. I took the opportunity, on my own personal responsibility, of pressing that upon the Admiralty and upon the British Government as, at all events, one means by which our flotilla might be kept entirely up to date, its Australian character maintained, and the control of the Commonwealth Government asserted. Under this plan we should procure, by the expenditure of the same amount of money, a far more efficient, active, and progressive service than we could hope to do with a navy in a back water—a service solely our own, and limited by our exchequer. It would then be practically a branch of the British fleet, though under the Commonwealth so far as political control was concerned.

Mr. BOWDEN: There would be divided control in time of war.

Mr. DEAKIN: No; the whole control would be in the Commonwealth, but if in a time of danger it chose to place its flotilla under the command of the Admiral on this station—and in the event of operations here I should say that, in almost every circumstance one can imagine, that would probably be the case—it would then pass wholly under his control for the time being.

Colonel FOXTON: But if it did not choose to do so?

Mr. DEAKIN: Parliament would retain the whole control.

Colonel FOXTON: We would have this anomaly, that there would be men and officers of the Royal Navy practically unable to serve therein.

Mr. DEAKIN: Not so, and why? Because, instead of being taken from the Royal Navy, our squadron would be an addition to the Royal Navy, and would not take anything from that Royal Navy even if not added to it. It would, perhaps, be less effectively employed apart, but, whatever it did, would help the British Squadron and assist to protect this part of the Empire. The Royal Navy could lose nothing by the existence of a special force, created and maintained at our expense and not at that of the British taxpayer. So far as one can judge, almost under any conceivable conditions, the Government of the Commonwealth would feel that its safety was best served by placing those ships under the control of the highest naval expert in these seas.

Colonel FOXTON: Almost certainly, I should think.

Mr. DEAKIN: I should say so; but, after all, the Government's responsibility is to their people, and the Government must be answerable only to them directly. To part with its control altogether would be to part with the Australian character of this local flotilla, which is one of the elements that we hope to use for the development of the maritime spirit in this part of the world. By its means we can make

a real addition to the British Navy. Our squadron being an addition to, although part of, the Royal Navy, could be employed with its ships to its and our great advantage.

Mr. SALMON: And Australia would become a recruiting ground for the Imperial Navy.

Mr. DEAKIN: As it would to the same extent in no other way.

Mr. WILKS: It would be an auxiliary squadron.

Mr. DEAKIN: It would be an auxiliary squadron in the sense of being trained in exactly the same way as the Royal Navy, and, therefore, capable of acting with it as an auxiliary just as troops who are drilled together can act together. In fact, it would be part of the British Navy. The question between us at present is not principally one affecting our present payment towards the upkeep of the squadron. As showing the attitude which the Admiralty adopted towards the subsidy, Lord Tweedmouth said—

The best way to start the system he was suggesting would be to allocate for local purposes certain portions of the subsidies already given. The particular purposes to which that money should be devoted should be discussed in detail between representatives of the various Colonies and the Admiralty, so that a thoroughly good scheme might be worked out in the end.

The real question is one of control, though that only emerges gradually into view as the negotiations proceed. The problem before us is the association of our small naval strength with the great organization of fleets of the Mother Country so as to secure the highest efficiency and unity without sacrificing our right to the constitutional control of our own funds, and of any flotilla built and maintained at our own cost. I have made numerous quotations because honourable members, when they come to read them, will see certain inconsistencies which appear to beset Lord Tweedmouth's mind at that time—inevitable contradictions that have since become clear, but which only subsequent events enabled us to discover. Honourable members will see that on the part of the Admiralty there are to be no more demands on Australia—no official claims for money. But there are conditions sought to be imposed though these differ in substance from the demands originally made on us. Of course honourable members will not forget that there are two branches of naval defence as it will be undertaken by the Commonwealth. First, there is the British Squadron for which we make a contribution in money. It is with that, and with that alone, that the Admiralty are dealing in the correspondence presently to be read. But quite apart from that, there is about to be created by ourselves, at an expenditure of £250,000 a year, a force, towards which, of course, the Admiralty will not contribute, and over which they can claim no control except that which this Parliament may be pleased to give them. I ask honourable members to keep in their minds those two separate sets of proposals, because all the references made by the Admiralty relate only to our present contribution and their Squadron. We pay £200,000 a year to that Squadron, and that contribution is often ridiculed overseas. I venture to say that by no comparative test can it be subjected to ridicule. It will compare favourably with the £50,000 a year contributed by Cape Colony, with the £40,000 a year contributed by New Zealand, with the £35,000 a year contributed by Natal, and with the £3,000 a year contributed by Newfoundland. While the expenditure in Canada amounts to £185,000 a year, it is for the protection of her own fisheries, on docks which her vessels have to use, and on other matters from which direct local commercial benefits arise.

Mr. KING O'MALLEY: Does Canada contribute nothing to the British Navy?

Mr. DEAKIN: Not directly; she spends £185,000 on services which not only serve Canadian, but also Imperial, ends, and are, therefore, counted by her as a contribution towards defence. I am not criticising that course, and certainly am not objecting to it, but point out that we cannot measure that expenditure of £185,000, from which the Canadians get considerable local present commercial benefits, with our contribution of £200,000, from which we get nothing of that kind.

Mr. FISHER: They do not conceal the fact that they do not intend to pay a subsidy to the British Navy.

Mr. DEAKIN: They do not conceal that fact; but I am not called upon to criticise them.



Colonel FOXTON: Do not the Straits Settlements contribute anything to the British Navy?

Mr. DEAKIN: A small amount is contributed, but that is a Crown Colony, and I am dealing with self-governing Colonies. At the present time, the Admiralty have consented to compound, so to speak, the contribution which has been made by Natal hitherto, and propose to compound that made by Cape Colony, accepting instead of cash a naval militia, drilled on a vessel which is to be provided by them, and also on certain submarines and destroyers, to be built and manned locally, at the expense of the Colony. Under what control they are to be placed I am not informed. It is in pursuance of our proposal that we should contribute in kind, instead of in cash, for the further term which our Naval Agreement has to run, and that it should be amended to that end, that since returning from London, having been in communication with the Admiralty, unofficially, since August last, and officially since September last, about the 23rd September I sent the following cablegram:—

"In pursuance of my conversation, Tweedmouth and the Admiralty in London, and Ewing's conversation with Your Excellency, please telegraph to Admiralty inquiring whether following proposals, approved for amendments in Naval Agreement, substituting for present Commonwealth subsidy—

that is £200,000 a year—

offer one thousand seamen, Australians, if possible, to be paid by Commonwealth for service in Navy on this Station, estimated cost of about £100,000 to Commonwealth per annum, remainder of present subsidy to be applied by Commonwealth to submersibles or destroyers, or similar local defences, as suggested London Conference. Two cruisers, "P" or superior, manned by 400 of the 1,000 Australians, to be retained Australian coast, peace or war. Loan of two "P" cruisers or superior, to be maintained by Commonwealth for training local Naval Militia, at estimated cost to Commonwealth of £60,000 per annum. This proposed amendment is in addition to Commonwealth vote this year—£250,000 for naval, harbour, and coast defence, and £50,000 for fortification harbours."

That is a proposal by which, in the opinion of this Government, we could make a contribution not open to the objections raised to the present Agreement, for it would be a contribution of men instead of money. In letting our contribution take that form, we should be considering our own interests as well as those of the Navy. The experience our men would gain upon ships of the Royal Navy would admirably qualify them for manning any ships that might be built and controlled by the Commonwealth. It would also provide for their receiving the most up-to-date training. Of the 1,000 Australian seamen whom we had hoped by this means to have stationed on our coast 400 would man two cruisers stationed on our coasts. The "P" cruisers, I may say, are regarded as going out of date. Still these two cruisers manned by 400 Australians, and the other two manned by our naval militia, would at all events bridge the gulf between the present time and the season, not too distant, when the Commonwealth will probably have ships on which to place them. This contribution would develop the naval strength of Australia, relieve the Admiralty of the cost of 1,000 seamen, and be one which, I should have thought, they would be glad to accept, and which we might be proud to tender.

Mr. WILKS: It is men that they mostly need.

Mr. DEAKIN: Not in other parts of the world. They have six offering for every one they are able to take. The Royal Navy has the pick of British seamen. We have to remember, however, that ours is a remote station, and that crews have to be sent at considerable expense over long distances for three years' service. That being so, the contribution of 1,000 Australians would afford material relief to the Admiralty, and be a substantial support to the Squadron. Our despatch of 16th October, 1907, which summarises the history of the negotiations to date, reads as follows:—

My Lord,

Prime Minister, Melbourne, 16th October, 1907.

I HAVE the honour to request that Your Excellency will communicate with the Secretary of State for the Colonies, inviting him to refer the Admiralty to my despatch of the 28th August, 1905, of which, for greater

convenience, I enclose a copy. [*Commonwealth Parliamentary Paper, Senate, No. 98 (1906).*]

2. The subject therein dealt with has been fully and thoughtfully considered during the period which has elapsed since it was written, not only by Ministers here, but also during the recent Conference in London, where I had the great advantage of personally discussing the matter with Lord Tweedmouth and the heads of his Department.

3. Speaking generally, the further consideration which has been given strengthens the conclusions put forward in 1905, particularly those in which I dwelt upon the fact that at present none of our grant is applied to any distinctively Australian purpose, while our contribution would seem in part repaid if we were enabled to take a direct and active part in the protection of our shores and shipping. Our sole aim then, as now, was that of uniting with the Mother Country in the necessary preparations for national defence, and the scheme I have lately submitted included a method of sharing in the duty of naval defences by means of a contribution of Australian seamen instead of money, which is allied to the provision for the selection and partial training of the crews engaged in the proposed steamer service as members of the Royal Navy Reserve formerly submitted.

4. As the replies received to the despatch of 1905, which appear also on the paper enclosed, expressed disapproval of the special suggestion then put forward, the Government now invite reference to that part of the despatch of 23rd May in which the Lords of the Admiralty intimate that other aspects of the matter might be viewed with favour. A specially suitable opportunity for discussing these was presented in connexion with the London Conference, when the whole question was generally reviewed as far as practicable, considering the limited time at our disposal. Lord Tweedmouth, speaking on behalf of the British Government, was most generous, and Ministers have confidence that the proposals now put forward by the Commonwealth in consonance with his suggestion will be adopted upon the advice of the Admiralty.

5. It was my intention, on returning, to take immediate steps to give effect to the general understanding arrived at in London had not personal disabilities prevented me from giving it until recently the close attention which its details demand. After several conversations on the subject between the Minister for Defence, on behalf of the Government, and His Excellency the Admiral, whose freely-given assistance has been most highly valued, His Excellency was asked to telegraph to the Admiralty the proposals of this Government with reference to the Naval Agreement of 1903. The telegram which I sent to Admiral Fawkes was as follows:—

"Confidential.—In pursuance of my conversation, Tweedmouth and the Admiralty in London, and Ewing's conversation with Your Excellency, please telegraph to Admiralty inquiring whether following proposals, approved for amendments in Naval Agreement, substituting for present Commonwealth subsidy offer one thousand seamen, Australians if possible, to be paid by Commonwealth for service in Navy on this Station, estimated cost of about £100,000 to Commonwealth per annum, remainder of present subsidy to be applied by Commonwealth to submersibles or destroyers, or similar local defences, as suggested London Conference. Two cruisers, "P" or superior, manned by 400 of the 1,000 Australians, to be retained Australian coast, peace or war. Loan of two "P" cruisers or superior, to be maintained by Commonwealth for training local Naval Militia, at estimated cost to Commonwealth of £60,000 per annum. This proposed amendment is in addition to Commonwealth vote this year—£250,000 for naval, harbour, and coast defence, and £50,000 for fortification harbours."

6. To a subsequent inquiry by the Admiral as to whether any Australian Naval Reserve that might be kept up would be included in the Naval Militia, a reply was sent that it had been agreed in London that this Government would take over the Naval Reserve in Australia.

7. The Parliament of the Commonwealth is now sitting, and members anticipate that before they rise the proposals of the Government in regard



to naval defence, or at least a complete outline of them, will be submitted for their consideration. The matter is therefore urgent, and it was hoped that some general indication of approval by the Admiralty of the principles of the proposal forwarded, perhaps coupled with criticisms of some portion of it, might have been given by cable. The suggestions were made in the same spirit as that which inspired the despatch of August, 1905, and were intended as a groundwork which might become the basis of a formal proposal to be conveyed by despatch.

8. I am writing this now expecting that it will reach England in time to be considered in connexion with the cable message from the Admiral, and for the purpose of supporting the proposals therein made. These have been evolved, and are now put forward in the belief that they will form a means of promoting and enlarging that national co-operation and fostering that stronger sense of mutual support alluded to in my former despatch.

9. That communication concluded with a statement that the very life of the Empire depends on the Navy, and pointed out the necessity for taking every step possible to increase our maritime strength to enable us to meet all emergencies that International difficulties may create. That opinion becomes more deeply rooted in view of the consistent efforts of rival foreign Powers to increase their influence. It is the conviction of Ministers that our proposed expenditure on defensive craft, which, while satisfying the desire for a visible and ever-present means of immediate protection, would yet be capable of effective employment in co-operation with His Majesty's largest ships upon our coasts, would materially foster the desire among our people for a sea career, and so increase our maritime resources in a direction in which improvement is greatly needed.

10. I shall be glad if Your Excellency will request that this communication be forwarded to the Admiralty without delay, and will commend it to their immediate and favourable consideration.

11. If the scheme suggested is approved, some amendment will be necessary in the Naval Agreement of 1902 which forms the schedule to our Naval Agreement Act of 1903. Article VIII. will require to be recast, and some minor alterations made in Articles V. and VII., and, perhaps, XII., but the precise form can be settled later.

12. Perhaps the Secretary of State will suggest to the Admiralty that they should submit a draft of any amendments necessary to give effect to the foregoing proposals.

I have, &c.,  
ALFRED DEAKIN.

Governor-General His Excellency  
The Right Honourable  
Lord Northcote, G.C.M.G., G.C.I.E., &c.

That despatch was followed by certain unimportant cablegrams, and ultimately by the following cabled reply to our offer from the Lords of the Admiralty:—

Referring to your telegram of 6th December, Lords Commissioners of the Admiralty point out that scheme proposed in your despatch, No. 249, goes beyond general undertaking arrived at during Conference. After full consideration, they regret that they cannot accept these proposals as they stand as basis of new agreement in substitution for Naval Agreement.

They adhere to the position taken up at Conference, that while they did not themselves propose to cancel the existing agreement, they were prepared to co-operate with the Colonial Governments if any alteration was desired by them, but so long as the existing Agreement is not cancelled, the Admiralty is precluded from making the necessary strategical disposition of Naval Forces, and, therefore, the first condition of any new arrangement must be the cancellation of the Agreement.

After what I have said as to the present policy of concentration that is readily intelligible to honourable members.

Mr. HUME COOK: Any new arrangement would have to be by mutual consent.

Mr. DEAKIN: Certainly. Then they proceed:—

The Admiralty fear that they are not in position now to express opinion on the details of the scheme, which have not been yet put forward in sufficient detail to form basis of a new agreement. Your Premier appeared at Con-

ference to realize that under scheme then sketched by him Admiralty would not be bound to maintain any particular ships permanently in Australian waters, and their Lordships are prepared to advise and assist in carrying out either the scheme submitted by Mr. Deakin at Conference, or any approved modified scheme for local defence, provided that such a scheme does not involve a definite pledge to maintain particular vessels permanently in Australian waters. Before any definite conclusion can be arrived at, it will be necessary to ascertain the views of the Government of New Zealand as to any proposed alterations, and, further, Admiralty desire it to be understood that no increase of Imperial expenditure beyond that involved in the existing agreement can be entertained—

These are the last words, and the most important in the communication:—

and regard it as essential complete control in time of war over local forces must be secured to Commander-in-Chief.

That means the Admiral on this station. It is a stipulation for his control, irrespective of the consent of the Commonwealth Government, of all the "P" cruisers, or, at all events, of the two manned by 400 men, and possibly of any smaller craft built by us with the remainder of the present subsidy. While we are invited to take a leading part in naval defence, that leading part is to be confined to times of peace so far as our control is concerned, and is to involve no control in time of war.

Mr. FISHER: That is impossible.

Mr. DEAKIN: I replied in these terms on Monday last:—

Cablegram received with thanks for prompt reply. Ministers are unable to gather—(1) Assuming existing agreement cancelled, what amendments Admiralty propose in new agreement in addition to those mentioned in despatch of October 16th, paragraph eleven (11);

in which I indicated what articles in the present Agreement would need to be amended if the Government's proposal were adopted—

or (2) in what respects their proposal goes beyond the general understanding at the Conference; or (3) beyond any scheme submitted by Deakin at the Conference. Ministers wish to learn whether allusion to particular ships maintained permanently Australian waters refers anything more than cruisers manned by Australians; also what increase in Imperial expenditure is involved if their proposals are accepted. Control of vessels built and maintained at Commonwealth expense must rest with its Parliament, which would place them under Commander-in-Chief whenever that was deemed necessary. Ministers hoped that scheme by which these vessels would be maintained at standards of Royal Navy, both officers and men being trained in and passing through the Navy when not serving on Australian coast, would mean creation efficient auxiliary force of value to the Empire and precedent for other Dominions. New Zealand has been informed of the proposals, and will be again communicated with on receipt of reply to this.

That is the stage at which the negotiations at present stand. The impression left upon my mind by my visit to London was that the proposals made by us, and roughly summarised in the notes from which I recently read, would be accepted cordially. I wish it to be clearly understood, however, that this does not imply that the Admiralty itself, which is the authority now negotiating with us, speaking as the Admiralty, was committed to any definite view. But, having met the leading members of the Admiralty Commission and some of their leading officers, including most of the intelligence Branch, and having discussed proposals with them at great length and in detail, it appeared to me that the demand for control first put forward had been modified, and that we had every reason to expect a glad welcome to our offer. For that reason, amongst others, I proceeded deliberately and with confidence in the preliminary negotiations to which allusion has been made. I by no means despair of my proposition, and trust that the view now expressed by the Admiralty will not be maintained for any length of time. We had the great advantage, before submitting it, of receiving the kind assistance of His Excellency Sir Wilmot Fawkes. When our proposal is fully weighed and considered, it should commend itself to the Admiralty as a whole, as I know it did to some of its prominent



Lords and their advisers. Hoping to have met the House with a complete agreement, under the circumstances it appeared advisable to take honourable members entirely into our confidence, and I have therefore informed them of the whole of the official communications to date. This is one of the questions which will require to be carefully pondered before our reassembling, when we shall proceed to deal with the Ministerial proposal for a vote of £250,000 towards building, maintaining, and manning a small flotilla of our own. The Admiralty is apparently endeavouring to insist upon exercising its authority in time of war to distribute its vessels where it pleases. I do not deny that it might be a wise thing for our flotilla to be attached to the concentrated British Fleet on these seas, and even to proceed with it to a considerable distance from our coast to cope with the enemy. The modern naval doctrine appears to be Napoleonic—that you should always be in greater force than your enemy at the particular point of attack. I do not dispute that this might be the wisest tactic, and am far from doubting the fitness of the Admiral of the station to advise the Government of the Commonwealth in time of war upon the disposal of these vessels. On the professional side, I offer no opinion. What I contend for is a constitutional, not a naval, principle. Even a desirable thing loses much of its desirableness when an attempt is made to force it on a self-governing community, having the right to choose its own path, and accept the consequences. It will be dangerous for the Admiralty to insist on a supremacy which, if misadventure befell, would place the whole responsibility upon them. The Government of the Commonwealth, representing the Australian people, is entitled in this, as in every other matter, to speak and act for them. I have indicated how in my opinion it would act. Weighing its responsibilities, it must do what it believes best in the interests of the people. From this principle there can be no departure. I now turn to the proposals for expenditure on what I will term, for the sake of distinction, our local naval force. I had occasion in London to object, and wish now to object, to the sense in which those words are often construed. I maintained at both Conferences, in 1887, when representing only Victoria, and in 1907, when I had the honour to represent the Commonwealth, that accepting the doctrine that the Empire is one—which is the only true foundation for Imperial sentiment—we must recognise that all the means of defending any part of it are Imperial. Ships protecting the Australian coast are as much Imperial as any that are protecting the Mother Country, and the naval force under the Union Jack and Southern Cross that beats off a hostile Power in the Australian seas is as much Imperial as any under the Union Jack alone. Although "local defence" properly defines craft which cannot be sent long distances, and therefore operate always within a certain radius, to the full extent of its efficiency, it is Imperial as well. In speaking of our local defence, I speak of vessels whose sphere is practically limited to Australian waters. Yet these will be engaged in the defence of the Empire just as much as if they fought at the mouth of the Thames. Those who hear me will remember how Lord Tweedmouth alludes to the value of such a flotilla. It would be, he said, "of great assistance," of "much help," of "enormous advantage." Local defence is Imperial defence at a particular spot, but none the less Imperial on that account. With vessels built for, and presently, I hope, built by, Australians, manned by Australians, trained and kept up to the Royal Navy standard, we shall be gratifying Australian aspirations, while making the most real contribution to the defence of the Empire. In providing that part of our defence which will be absolutely under our own control, it appears to me reasonable to proceed from the ports and the shores outwards. We should commence by furnishing the naval defence necessary or advisable to supplement our shore defences, and having provided for the harbours, establish a zone round them which would permit free exit and entrance for vessels in times of war. Hereafter we shall also provide other and more powerful vessels for coastal defence. It seems a reasonable thing to begin at our centres. Most of our great cities are on or near the coast. We have a large and valuable commerce, inter-State as well as oversea, which requires to be taken into consideration. Local naval defence demands vessels and men. After what I said at the outset, honourable members will sufficiently realize that those vessels, even though they may be small, carrying comparatively small crews, will be extremely complicated, and highly specialized, needing highly expert seamen. These will have to be picked as they are picked in the Imperial Navy. Men in their prime, chosen for their capacity, and subjected to thorough training will be required. In 1887, when returning from the first Conference which I had the honour to attend, I

expressed the aspiration that I might live to see the day when, in place of subsidizing a Squadron, Australia would supply ships built, manned, and commanded by Australians. That time is now arriving. But the conflict of opinion as to the best means of defence and the particular type of vessel most advantageous under our circumstances is acute in the Mother Country, and echoed here. I am not competent to decide the question, but Lord Tweedmouth, speaking for the Admiralty at the Imperial Conference, strongly recommended submarines. They were, he said, the weapons of the future. They were directly suggested by him to Sir Joseph Ward as suitable for the New Zealand coast, and he expressed the opinion that before long they would supersede the destroyers. He asserted that they were the best weapons available. In these circumstances, having regard to his official advisers, it would be unwise for us to reject his counsel. Even in face of the fact that high authority, that men well known to us and to the Empire as experts of very high standing, such as Sir George Sydenham Clarke, who, although a soldier, has made a study of naval defence, also Admiral Cyprian Bridges, and some of our own naval officers, consider that, though the submarine may prove to be the most effective instrument in the future, its superiority has not been demonstrated as yet, our intention is to adopt this type of defence, if possible. So far as I could judge from the members of the Admiralty, from their officers, and from criticism in London, the main opinion of what might be termed the younger generation is almost entirely in its favour. We cannot shut our eyes to the fact that every powerful maritime nation to-day is largely adding to the number of its submarines. None of them have abandoned their experiments or reduced their numbers, though it may be admitted, and is perfectly true, that the submarine, as well as other vessels, is by no means perfected, and is undergoing frequent alterations. Though authorities differ, the submarine is admitted to be a most potent form of weapon if it were only because of its moral effect upon an attacking squadron. Having had an opportunity at Portsmouth of seeing these curious, porpoise-like vessels, as they approached, gradually submerging until nothing but the periscopes appeared above the surface, these too disappearing and leaving no trace of their movements, the spectacle was very convincing. Presently they returned to the surface. Now, seeing the facility with which they could cease to be visible, it became evident how demoralizing it must be to those in charge of battleships or cruisers to know that in their vicinity—where they do not know and cannot discover—there are enemies of insidious approach, capable of doing immense damage. Consequently, after the best consideration we could give to the matter, in face of admitted differences of opinion, it seems to us that for Australian harbour defence, and even for spaces immediately surrounding a harbour's mouth, in which hostile vessels would require to lie if they endeavoured to bottle up our shipping, the submarine is probably the best weapon. We have referred to submersibles, which honourable members, no doubt, are aware are larger vessels with two motive powers, one using coal or oil when the vessel is on the surface, and the other using electricity, or possibly petrol, when the vessel is below the surface. Though not as favoured as submarines, it is possible that they may prove to be even better suited to some of our ports, but that is a matter for detailed consideration. When I spoke recently of the strain to which seamen in modern vessels are always subjected, it is to be recollected that this is especially true of submarines and submersibles. The youngest, most gallant, and ablest officers of the Navy are selected for this service; immensely proud they are of their task, and never in the slightest degree afraid of the risks that it involves. But it must be recognised that the maintenance of submarines in an efficient condition means, as I have said, a change every three years or so in order to relieve the strain upon the crews and in order to improve their training. Consequently, if we have a land-locked navy, our submarines would possibly become unsuitable, because we could not rely upon the crews and officers being kept up to the highest state of efficiency. It is pointed out by Lord Tweedmouth that the higher ratings, even of the ordinary British seaman, take six years to gain, and that all officers serve eight years before they reach even the rank of lieutenant. Those employed on submarines in particular require a specially long and severe training. Honourable members will now perceive the purpose of the remarks which I made at the outset. The smallest vessels, and perhaps these more than all others, require crews of great skill and capacity, high scientific training as well as very great courage and resource, and yet it is upon these apparently that Australians in the first instance should rely. The best submarines are those at present known as the



C class. I have seen three classes, A, B, and C. The C class will probably in a short time be surpassed by the D class, now in prospect. The C class is at present the most modern submarine in Great Britain. We shall probably propose to the House, subject to a condition I will mention presently, that three of these should be purchased each year for three years, and that in addition to them two torpedo boat (coastal) destroyers the most up-to-date of their class should be built annually for three years. This would give us at the end of that period nine submarines and six torpedo boat (coastal) destroyers—fifteen small vessels in commission after the three years' programme is completed. Of course, these would be outside the Naval Agreement, and remain solely under Commonwealth control, although, as before stated, in my judgment they would be treated in the same way as any built under the new Agreement in time of war. The torpedo boat (coastal) destroyer is fitted with turbine engines, oil fuel, three torpedo tubes, and also carries two twelve-pounders. She would have a speed of twenty-six knots, and a complement of thirty-three men. The C class of submarines, whose details, as I have said, may be somewhat altered in the D class, would have an approximate speed on the surface of fourteen knots, with a speed when submerged of ten knots; two periscopes, and two propellers. The method of propulsion would be by electricity or petrol, they would be provided with two torpedo tubes, and would have a crew of sixteen. The first cost of a first-class torpedo boat (coastal) destroyer would be £42,000. Two therefore would cost £84,000, and there would be some expense connected with bringing them to Australia if they were brought from the other side of the world, about which I shall say something presently. A submarine costs £50,000, and £5,000 more to deliver in Australia. The total cost of each here would therefore be £55,000, and three would cost £165,000. The cost for the year for two first-class torpedo boat (coastal) destroyers and three submarines would amount to £249,000, or almost exactly the sum we propose to vote, leaving £1,000 towards the expense of bringing the torpedo boat (coastal) destroyers out to Australia. The cost for the upkeep of these little vessels may be far more than honourable members anticipate. The cost of oil, fuel, stores, and repairs of a first-class torpedo boat (coastal) destroyer would be £6,725. The wages for a complement of thirty-three men at naval rates, including a colonial allowance of 3s. a day, but without victualling, would amount to £4,500, leaving the total charge for the upkeep of these vessels nearly £12,000 a year. The cost in the case of submarines at naval rates of pay and our special allowance would be for each shore base of four men £570. For each submarine, double crews of sixteen each, £5,650, and for each small vessel or tug associated with them, with ten men, £1,180, or a total of £7,500. Then repairs, sea stores, petrol, and victualling would take £3,600, making a total of over £11,000 a year. I need not enter into details with respect to clothing, pensions, and so on. The total charge for upkeep, without the charge for the tug, would amount to about £57,000 for five vessels for the first year. The expenditure would rise to £114,000 for the second year, and to £171,000 when the third year's operations were completed. These figures are, at all events, sufficiently near for present purposes. The complete scheme would give us two submarines for New South Wales, two for Victoria, two for Queensland, one perhaps at Thursday Island, and one each for South Australia, Western Australia, and Tasmania, and one torpedo boat (coastal) destroyer for the chief harbour of each State. The probable period of usefulness of these vessels is reckoned at fifteen years, and allowing £50,000 a year, which would be one-fifteenth of the total cost, the annual outlay on completion of the present proposals would be £231,000, without including interest, say, £250,000 a year. Whether these precise vessels will be chosen will be determined partly by the association we are able to form with the Royal Navy through the Admiralty, and partly on the possibility that local advices may suggest some change. We do not feel that it would be judicious to endeavour even to look forward further than three years, but, following the principle to which I have already alluded, if after the three years the protective force be considered insufficient, probably it would then be wisest for us to acquire a torpedo destroyer, of a larger type than is at present current, or, at least, as large as the latest modern type, which would be capable of ocean-going coastal service. It must, however, always be remembered that in the heavy seas which frequently occur along the Australian coast the largest torpedo-boat destroyer that you could find would sometimes be rendered almost powerless for rapid and effective action, and that, as the great security for its own safety, if confronted with a vessel carrying heavy metal,

is speed, when that is lost the efficiency of even large coastal destroyers is much to be doubted. But probably by the time we are able to undertake them, there may be further developments, which will remove some of the apprehensions entertained at present. Even in ocean-going destroyers, as they are called, there is also a division of opinion. It will be necessary to obtain our first submarines and coastal destroyers from Great Britain, but if the general offers we have already received prove upon examination to be satisfactory, there are prospects that some, if not all, of those needed in the second or third years may be locally built, even if certain special parts are allowed to be imported. The policy of the Government is to build as many as possible here, since the vessels, whether originally imported or not, will require to be repaired and refitted in Australia. Behind the vessels, which would form a harbour and, to a certain extent, a coastal defence in our three years' proposal, the Government, having obtained, in May, 1906, from the Imperial Defence Committee, a report which deals with lights and armaments for the shore forts, have adopted its general principles and are applying them. The new armament recommended is that of the 6-inch mark VII. breech-loading guns, which, together with mountings and works, will cost £162,000 when complete. The new electric lights, engines, and works will cost nearly £23,000. The ammunition—with the requisite reserves and supplies—will cost £107,000. We are devoting £50,000 this year, and propose, so far as we have responsibility, to continue that sum each year, until our fixed defences are brought up to this standard. They will probably take between five and six years to complete, by which time we shall efficiently light practically every port in Australia, and have their armaments of such a character as to render most material assistance to our naval defence, in offering a determined resistance to any cruisers we are likely to see in these waters. A large invasion is not expected, but we must be prepared for sudden raids. When we have obtained another model we have every reason to believe that the carriages for these guns can be made in Australia. Plans and specifications are being obtained, and we shall soon be prepared to call for tenders. The total expenditure proposed for guns, mountings, and works, lights, engines, and ammunition, is £292,000, or say, £300,000. All my figures, honourable members will notice, are in round numbers. I have them given here in detail, but the alterations are so constant that in estimates for the future they can only be taken as approximations in every case.

MR. WILKS: Those are not your own calculations, are they?

MR. DEAKIN: Heaven forbid! A specific acknowledgment ought to be made of the fact that practically the whole of the material I am now using has been prepared by the indefatigable energy and perseverance of my colleague, the Minister of Defence. It pleases him to affect, in Parliament and elsewhere, to treat his responsibilities lightly; but, although, in the State and here, I have been in several Ministries, I have never had a colleague more thoroughly devoted to his work, or who has given more time and ability to the conduct of his Department. At present our Naval Force is inconsiderable in numbers, and relatively inconsiderable in cost. We are fortunate in having several very excellent officers at the head of affairs, who have done us good service, and whose work is not to be forgotten. They will be associated, while they are serviceable, with any scheme which we propose. We have also a number of men of excellent physique, character, and service, and, so far as they can maintain their efficiency, they will be retained. If our offer to the Admiralty of a thousand Australian seamen is not accepted, we shall have to find some other means of training those who have the taste or disposition for sea life. Owing chiefly to the exertions of philanthropic gentlemen, there are in Australia to-day a number of bodies of naval cadets of a promising character. Some of them consist of very young boys, but really the display they make, their efficiency and grasp of their duties, their management of a boat and guns, and their drill, are excellent, as I have had an opportunity of knowing from personal observation. We propose to extend that system very largely. We find it an admirable antidote to the temptations of street life to boys of a certain age. It gives them a manlier character, discipline, and loyalty, which prove of the greatest value afterwards. In that respect, among many others, we believe that we shall be doing good service, outside the cause of defence, in enabling a very much larger number of boys to be trained for sea life, or for any active employment of head and hand. Considerations of time alone compel me to proceed to our other branches of our defence. After we have considered harbour and coastal defence and naval possibilities—I have already made reference to the forts—we come to those who man the forts—the



Military Forces of the Commonwealth. The outlook here differs very largely from that of the naval service, because it is much less specialized and may be made much more generally disciplinary to our people as a whole, although it demands in most cases a small degree of organisation and efficiency. But we cannot afford to speak lightly of our land force, first because of what it has achieved—and its record where it has been tested is admirable—and also because, although not preparing for any expeditionary adventures outside Australia, we must realise that while we remain such a mere handful of people, clustered practically in one segment of the continent, any invasion attempted would probably be at a remote part. Our military forces would have to be prepared for acting one, two, or more thousands of miles away from the populated centres of the Commonwealth. Consequently that casts an additional burden on us, since, until our population grows faster than it has been growing—and I hope we shall grow much faster—we have the responsibility not only of protecting hearths and homes here, but of guarding the great unoccupied parts of this immense continent. As in the Navy we are making a new departure almost without a precedent, and new to all the Dominions of the Empire, so in connexion with our land forces it appears to the Government that the time has arrived for making a new departure of an equally marked kind, and of a type equally unprecedented under the British flag. While I have no desire to find fault with our existing militia force, which has every appearance of energy, yet there are considerations in respect to it which I think will weigh very seriously with the whole of this community. In the first place, numerically it is absurdly weak. It is now 14 per cent. short of the officers it ought to have, and 10 per cent. short of the numbers of those required in the ranks. The average training of the rank and file is only 1½ years; so frequent are the incomings and the outgoings. In fact, for active service to-morrow, probably we could not count on more than half of the 22,000 odd militia that we have. A force of 1,300 permanent men looks well, but on examination we discover that only about 700 belong to the fighting force. When the Permanent Force is reduced so much, we can understand the deductions required in calculating the effective strength of the ordinary militia. Out of a population of nearly 1,000,000 men of military age, we have only 22,000 regularly drilled, and, as I have said, for only short periods, and for the most part on parades or in drill-rooms.

Colonel FOXTON: But a vast number of those who have passed through the ranks are practically a reserve.

MR. DEAKIN: Unfortunately, however, they are a reserve of only twelve months' experience, which, as the honourable member knows, rarely amounts to much, and often to very little.

Colonel FOXTON: The average service is over twelve months.

MR. DEAKIN: The average is a year and a half for all, but many go out at the end of twelve months.

Colonel FOXTON: But a great many do not leave until after the expiration of three years.

MR. DEAKIN: And such men, for, perhaps, seven or ten years afterwards may be looked upon as a reserve.

Colonel FOXTON: And a good reserve, too!

MR. DEAKIN: Besides these men there are 40,000 others, of all ages and degrees of physical capacity, who practise more or less with the rifle, but who have no drill, no organisation, and no officers. If we distinguish the volunteers from the militia, we find that even a smaller proportion of the former would be effective for immediate service in the field. In point of fact, the volunteers are also short of officers, and are but partly drilled. What then is the position of the Commonwealth? About one schoolboy in seven is receiving some training as a cadet; about one youth in fifty-five, under nineteen years of age, has seen some service in the militia or the volunteers; and one man in fifty-two is in some way or other connected with the forces. That is to say, one male in every 112 is receiving some kind of drill and military experience for a short period; and, with our present arms, ammunition, and equipment, we should be unable to maintain very few more than the actual number of our militia and volunteers. Yet on this tiny array we expend a sum which this year approaches £800,000. In order, therefore, to have 100,000 men properly equipped we should require, at the same ratio, to spend probably £1,500,000 more than we do at present. We must greatly enhance our forces, but we cannot afford to pay more than £2,000,000 a year to that end; and yet that is what the present system neces-

sarily implies for that number. Numerically our force is too weak, and financially it is too expensive. It consists largely of married men, who ought to be in the second and not in the first line. It includes a number of men who, though they can stand ordinary parade, are obviously unfit for campaigning; many of the members of the rifle clubs are grey-beards. After our experience it is now plain that no system can meet our necessities except one that appeals to the people as a whole—that calls upon them in the name of citizenship. We are a free people, with political equality and sole authority in a country where all have the opportunity to possess homes of their own. Our position as free men in a free country casts on all the responsibility of undertaking our own defence. Of course, it is recognised that the withdrawal of men in the prime of life, at a time when they are engaged in vocations, and have families depending on them, would be a very serious matter; and the proposals of the Government take this into account. We propose a system of universal training, in order to form a National Guard of Defence, in which every young man in the Commonwealth shall be required to serve during his nineteenth, twentieth, and twenty-first years. This gives us a small fraction of his early manhood, when he is best capable of receiving the benefit and standing the strain of military training. Each young man will be called upon to spend an average of sixteen days per year, not in drill-rooms or on parade-grounds, but in local camps, devoted wholly and solely to continuous practical instruction. By this means it is believed that within three years we shall have in the Commonwealth a body of men sufficiently officered and capable of performing the services which Australia will require from her defenders. Whether they will attain the standard of European nations in regard to the minutiae of deportment or parade, or the precision of their movements, I do not know. But what we do know of our countrymen entitles us to feel well assured that at the end of that period they will suffice in all that is material. In a country of great distances like our own, with whose characteristics they are familiar—and with which we shall shortly be thoroughly well informed upon probable points of attack—they will be able to render a good account of themselves, and probably have an advantage over even the best trained troops of Europe, owing to the local conditions under which any conflicts are likely to be waged.

MR. SALMON: The training would not be limited to forty-eight days in three years?

MR. DEAKIN: That is the minimum of training for infantry men, but not for officers, artillery, or cavalry. Even on that basis, the cost will be crushing unless the trappings of war are replaced by a Spartan simplicity of uniform and habit, in harmony with the political principles on which our Government is based and our social life is shaped. We have kept closely in mind throughout, the democratic system of military organisation in Switzerland, very lucidly described this year by two of our officers, first in the Australian press by Lieutenant-Colonel Reay, and next fully reported upon officially by Colonel Bridges. More lately it has been investigated by a Select Committee from the Mother Country. The testimony of all is highly favourable to the results attained by a similar system under absolutely different physical conditions and territorial limitations. The proposals of the Government will, it is calculated, give an establishment of at least 83,000, always in training, supplemented each year by about 30,000 men, an equal number passing into the reserve. In the eighth year, this will mean over 214,000 men available, with full provision for arms, ammunition, and equipment for field artillery and cavalry, organised for service within the Commonwealth. The total cost of this is estimated at less than £250,000 more than is at present expended; whereas a Militia Force half as strong would, on our present basis, cost twice as much, if we could obtain the men. I give the estimated cost without reckoning any dues which this Parliament, on consideration, might see fit to attach to those who for one reason or another do not serve their proper period, making exceptions, of course, of those who for physical or other reasons are unfit to be enrolled. The period for which we make financial estimates is three years, as in the case of our naval proposals. I have alluded at present only to the National Guard and its national training. Beyond this, however, it is proposed to greatly enlarge the cadet system by the expenditure of at least an additional £20,000 a year for each of the three years, and to increase the expenditure on the rifle clubs by at least £10,000 each year over the same period. By this means we shall have a very considerable subsidiary force in the cadets and rifle clubs; I shall presently refer to the latter in another aspect. In



June, 1906, there were less than 7,000 cadets in the Commonwealth, whereas last year we made provision for nearly 28,000; and this year's Estimates represent a total of about 37,000. It will be seen, therefore, that the advance in this direction since the present Government came into office, has been very great. We propose to reduce the term of obligatory service in the National Guard for those who have passed through and qualified in the cadet service; that is to say, qualified cadets will be spared those days devoted to the drill and discipline which they have already acquired.

MR. SALMON: Cadet drill will count as service?

MR. DEAKIN: Yes, in 1906, the rifle clubs represented a membership of 37,000, whereas in November last they had grown to 45,000, an increase in seventeen months of nearly 8,000. We have every reason to believe that this increase will continue. National training for young men will occupy on an average only sixteen days a year for three years. Those who qualify as senior cadets need only put in twelve days a year. I may be asked "What of the present militia?" The whole of its effective strength will be absorbed, being required to supply officers and non-commissioned officers to train the new levies. In this connexion we shall secure an advantage in their higher training by a system to which I shall presently allude. There will be 30,000 men each year entering the present militia regiments by an increase in the number of their companies. The procedure in regard to the National Guard is that in the year in which he reaches eighteen years of age every young man will require to register himself. He will then be subjected to a medical examination, declared fit, unfit, or temporarily unfit, and dealt with accordingly. On joining he will receive his National Guard record—a small parchment book—in which his service, his promotions, and any comments thereon will be registered. This will be of some value to him in life outside the ranks. Each young man must make himself efficient each year, any year in which he fails to do so will add an additional year to his course. He will have to complete three efficient years before his term will be completed. The uniform will be of the simplest—hat or cap, a badge, a jumper or overall, breeches, leggings and boots. These will be the property of the wearer, and will all be made in Australia. The proposal is that each of the present militia units shall expand to three National Guard units, and shall receive each year one-third of its strength and part each year with one-third of its strength to the reserve. Many of the men who are not fitted for active service can be enlisted for ambulance and transport work. The artillery and other transport corps will require to devote longer periods to their training, and will receive a reasonable allowance for so doing. The officers will be paid for their services because they remain after their three years have expired. Some allowance must be made to them, since, in addition to the camps which they will have to attend for the purpose of training others, they will have to devote certain periods of the year to receiving higher training themselves. The men will be allowed as far as possible to select the branch of the service they prefer. Drill will be simplified. All training will be given in camps, and on ground permitting of the conditions attaching to actual service in the field. They will be carried out in the most practical manner possible.

Colonel FOXTON: But the artillery training will have to be continuous.

MR. DEAKIN: Artillery training of a kind will proceed continuously. When the measure dealing with this question is submitted to the House before the close of the session it will show the details for each arm of the service in that regard. Ultimately we may see a time arrive when, reckoning men under forty, we shall have 800,000 who are either in, or have passed through, the ranks. We estimate that these men can be obtained, disciplined, drilled, and made effective for £1,200,000 a year as against the present defence expenditure of £800,000. Every infantryman—three-fourths of the total force—will be armed with a rifle and bayonet with scabbard. At present we have 83,000 rifles of all kinds. We shall add 20,000 new rifles each year. The cost of these will be £100,000 a year. But these are not to be imported. They will be made locally. We have satisfied ourselves, after careful enquiry, that they can be made here cheaper than they can be purchased abroad. Every rifleman will have a bandolier equipment. It will consist of a sling, water-bottle and straps, great coat, blanket, waterproof sheet, mess tin and haversack. All these will be made locally. One arm in which our present forces are decidedly weak is the field artillery. At present we have sixty guns. The guns associated with the new force will be 240 of the latest type. They will be provided at the rate of sixteen a year, and will cost us, with their etceteras, about £50,000

annually. The waggons and limbers are now being successfully manufactured within the Commonwealth. Artillery ranges are to be secured, on which our gunners will have the advantage of practising with missiles under something approaching service conditions. The British Government have gone to enormous expense to supply these ranges in the United Kingdom. Their acquisition will demand some expenditure, even in this country with its very much larger and cheaper areas; but these ranges are absolutely essential to an efficient field artillery. The gun carriages for the 6.7-inch guns are to be locally made. We attach great importance to the creation of the utmost power of resistance locally, both as to war materials and men. We are at the very beginning of a period of development which I trust will be as thorough and complete as that of Japan. In order to provide against the emergencies of war, it will be necessary to establish an ammunition factory. This means a cordite factory by way of basis. If we can obtain orders for the supply of the Imperial Squadron in Australian waters, it would be of material assistance to us. If we can dispose of an output of 100 tons per year, we can save 3d. per lb. at present prices upon all the cordite that we use. On the other hand, if we can only sell 50 tons a year, we shall have to pay 5d. per lb. more for it. The caps and the fulminate will be made in the same factory as the cordite. The manufacture of cases at a rolling mill is also under consideration. My colleague, the Minister of Defence, has an elaborate proposal to lay before the House in this regard. I am sure that, from the information which has been supplied to us by Mr. Hake, the very capable Inspector of Explosives in Victoria, who recently visited the Mother Country to put himself in touch with the latest developments of this industry, he will be able to satisfy honourable members that it is desirable to establish a cordite factory. I have great pleasure in laying upon the Table of the House the report of the result of his investigations in the United Kingdom and elsewhere, and hope that it will prove interesting reading to honourable members. The Minister will be able to show that the establishment of a cordite factory is economically sound. Failing a supply of ammunition, even with 200,000 men available for service, what could be expected of them? I have shown how comparatively slight an increase there will be in the expenditure proposed under this great scheme, and I have also shown that a large portion of it will be expended in this country. Then we come to one of the most serious matters in connexion with this scheme. That is, the provision of a sufficient number of well-trained officers, because the theory of this force is that the officers are to train their men. The clerical duties at present performed by officers are to be done in future by clerks. We want our soldiers for soldiers' service, not for indoor work. But in order to obtain efficient soldiers a staff of officers must first be efficiently trained; and as we cannot pretend in this Commonwealth to establish a military college in every State, we propose to establish a school of permanent expert instructors. This would consist of three specialists—one whose subjects will be strategy, tactics, and military history; a second, whose subjects will be artillery, field and garrison, and machine guns and theory of musketry; and a third, whose subjects will be engineering in all its branches and topography. These experts, whom we think we can obtain at an estimated cost of £5,000 a year, will travel from State to State at appropriate times, meeting the officers in every State, lecturing to them, and examining them in the subjects which they have been studying.

MR. KING O'MALLEY: Is it proposed to include dancing?

MR. DEAKIN: We will leave that to the enemy when our troops meet him! For this movable college we shall secure the services of three of the best men available. They will be paid good salaries, and engaged only for such terms as will enable us to exchange them from time to time as military science is perfected. We hope to have our officers trained so that they will be able to impart to those below them the practical knowledge which they have acquired. They will be well instructed in peace, and will lead in war, and fill all commands in the Australian Forces. Of course, it must be remembered that in addition to this we have proceeding, and propose to continue, the temporary exchanges of officers with the Mother Country, with India, with Canada, and with South Africa. That system is likely to prove of great value to us. We are taking every advantage of it. Last year my colleague the Minister of Defence sent seven officers and non-commissioned officers abroad for training. This year he is sending eleven. We shall probably increase the number. We have applied to the Government of India for permission to send more officers there to participate in their military exercises, join their camps, and witness the



thoroughly organised military machinery in operation under Lord Kitchener. We have now asked for permission to send militia officers as well as permanent men.

MR. SALMON: Hear, hear; that is the right idea!

MR. DEAKIN: Ours is a citizen force. The ruling idea is, while setting a high ideal of military training, to provide equal opportunities for all our citizens who will give their time and ability to the service of the Commonwealth in this direction. We hope to be able to send the best of them each year to actual schools of training, such as are provided in connexion with the military manœuvres in India and in the Mother Country. In this way our officers will be brought into association and, in a sense, into competition with highly-trained officers in other parts of the Empire, whilst at the same time we shall be receiving officers from India, Canada, and the United Kingdom, who will criticise us and give us the benefit of their training. We shall learn from them, as we hope they will be able to learn something from us.

MR. SALMON: That is the way to raise the status of the militia.

MR. DEAKIN: This system of transferring is devised for the purpose of raising the status of the militia. It is upon our citizen soldiery and our citizen officers that we must rely. We recognise that we ought not only to raise the status of our officer abroad, but that we must raise him in the estimation of those whom he commands, and of those with whom he is allied. We qualify him to achieve this end by putting him in training side by side with the best officers of the British Government in India and elsewhere. We hope in this way to establish a high standard to which our citizens in arms may be encouraged to aspire. The object of these proposals is to give effect to that well-worn aphorism of Bonaparte, that every soldier should feel himself carrying a marshal's bâton in his knapsack. In pursuance of the same end we propose to take certain steps which will remove the artificial distinctions occasionally created. We shall want for our officers the best men we can find—men with the capacity for command, with a taste for military study and exercises, and with ability quite independently of the class in which they are found. We wish these men to have the opportunity of rising to the highest positions we can give them in our National Guard.

MR. SALMON: The Government are anticipating my motion.

MR. DEAKIN: If we can. I am well aware that at present when any one points to a desirable standard as an ideal, one is at once accused of becoming millennial. It is better to take a high standard than a low one. Many of the heroes of history who have set the highest possible standard for themselves have expected least from their fellows. When we aim at setting a high national standard in this way we are not insinuating that, by the introduction of this scheme, we are going to transform the nature of the people of Australia. Speaking for myself, I am content to trust the Australian people. I believe that they are not only fitted to serve, but to command, and to rival in the arts of war, so far as these can be practised in times of peace, any of like experience against whom they may be pitted. When we have secured a National Guard without distinction of class, wealth, or position, we hope that interest in our system of military training and the ambition for proficiency in its several branches will, to some extent, take the place of those sports at which our young people look and speculate upon every Saturday without otherwise participating in them. In one of his most stirring sketches, Kipling dreams of a time when military training will be regarded as the most fascinating of sports. If we can persuade our people that competition in military exercises is better than looking on at less educational forms of competition, we shall soon see our military and naval duties undertaken cheerfully and carried on under the same conditions of popular interest and approbation as apply in the case of sports and games. I know of no spirit which has such an influence on the English race as the spirit of competition. The clippings from the English newspapers which come to me every week contain at present, in most cases, only about an inch of matter relating to important Australian occurrences, as compared with about a foot of cablegrams devoted to the cricket matches of the English team now in this country. That, I imagine, is largely because of the element of competition, when batsmen and bowler are pitted against each other. There is no reason why we should not stimulate a similar interest in forms of military prowess, as is at present felt in regard to outdoor sports.

MR. HARPER: Except in regard to the gate money!

MR. DEAKIN: The interest there is that of clubs or players, not of the thousands of spectators who pay, but do not receive. Instructional schools are to be established, at which the interest of our officers will be stimulated as far as possible

by the highest forms of teaching. Special attention is to be given to staff rides and local experience, the operations being in the nature of actual service in the field. What we desire to reduce is the slow shooting at fixed targets under conditions which never obtain in actual warfare. In the same way, we want to substitute for parade drill, marching and evolutions in difficult and broken country, so that our troops may know how to use it, and so as to enable the higher officers to control together artillery, cavalry, and infantry over country known only by maps or reconnaissance. How many of our present officers have been tested in this way? I know some of the best of them who have been thoroughly disheartened for want of opportunities of the kind which they have long been seeking. We have already taken the fullest advantage of the lectures of Colonel Foster, Professor of Military Science in the University of Sydney. He has done in this direction most admirable work, he is doing it still, and for his assistance we are most grateful. Arrangements are being made for specially selected militia officers to take advantage of his course of lectures, and a special course has just been completed to meet the wishes of militia officers who were not able to participate in the previous classes. That shows how the spirit to which we wish to appeal—the spirit of individual interest, individual initiative and pride in the service of the country may be spread. One of the many important features of the Conference in London was the scheme which Mr. Haldane, as head of the British Army, laid before us, when he invited us to send our officers to the General Staff, there to be received as comrades, to be shown the whole of the operations of what is often termed the brain of the Army, to be tried by being placed in positions of command, and to have thrown open to them for their benefit everything that was being done. That was a most generous offer. In the same way, we hope to establish a General Staff of our own to which the British Government will send its officers to observe what we are doing, to learn something of operations in vast areas of sparsely settled country which they cannot expect to find in Europe, and also to give us the benefit of their knowledge and advice. It is by keeping in touch with the Army, as well as with the Navy, that we hope to keep up the standard, the spirit, and the efficiency to which the honourable member for Launceston has been alluding. Their officers will inspect and report on us, our officers will inspect and report on the Canadian Force, the South African Force, and the Indian Force. By that means we hope to materially benefit. An Intelligence Corps has just been formed, which will prepare the plans, statistics, and general information required for operations in any part of the Commonwealth. They will utilise militia officers and citizens, such as surveyors and engineers, who will bring to the aid of the Department the experience and knowledge gained in their ordinary vocations. Their work will be topography, preparation of maps, and information with regard to the country generally, transport, and other matters of imperative importance. They will take up the duties that were intended to be performed by the corps of guides which originated through the representations made by Colonel Kenneth Mackay, of New South Wales, and Colonel Miller, of the Commonwealth service. We attach the greatest importance to the work that will be done by this Intelligence Department, but in particular to the work that will be done with the Intelligence Department by the General Staff. We believe that the country will not hesitate to offer strong inducements to secure suitable men. In regard to central administration, the present Administrative Board is to be augmented by the addition of two or three experienced militia officers, to be appointed for limited periods, the personnel altering possibly by one each year. They will then feel that their knowledge is being utilised, and will be encouraged to extend it. It will create a better feeling between the various branches of the service, and will be valuable to militia officers, who can then learn the difficulties that surround central administration, of which at present they have least appreciation. A medical reserve is being established in which large additions will be made to those who are at present enrolled. In this regard many medical men, medical students, chemists, and citizens willing to be connected with the Ambulance Corps are ready to assist by undergoing the necessary training if an opportunity is given. These and similar opportunities will now be multiplied, to a larger extent, under our new system. When we have established a thoroughly citizen force, it will remain for the Parliament to recognise the service rendered. We believe that after the system is fully in operation, both Commonwealth and the States may be fairly asked to give precedence to men who have done service in the ranks—all must do that—who have done it well with energy and ability. A National Guard's Record ought to be a passport to advancement if in other respects he is well fitted. It is also proposed that after



this system has been established a sufficient time the rifle clubs shall only be recruited from men who have passed through the ranks, and in every way preference where preference can be given it ought to be granted to those who have shown special zeal for this form of public service. In the same way, whatever permanent force there is will be recruited from our own men.

MR. MAHON: Does the honourable gentleman propose to give them preference in the public service?

MR. DEAKIN: Yes, other things being equal, especially for general employment. When every one goes into the ranks the recognition of merit there becomes fair. Then we propose to aid and encourage the competitive spirit by inducing as many military contests, competitions, and tournaments as possible, subsidizing them to such an extent as to make them attractive to the public as well as to those who take part in them. All these things are possible when once we have created a citizen force in which every settlement and town, every family and class is interested, and from which no one is or can be excluded. Long service undertaken voluntarily will be especially appreciated, and recognitions of some kind will be devised. Provision for these is to be made, and also for some regular training for our reserves, though not included in these figures, because this plan in itself will be large enough for present consideration. After men have done their three years' training, it will be very desirable not to let them entirely rust, but to keep them in touch, at stated intervals, with the work which is being done, to attend occasionally even if only for a short time at camps with the National Guard. In the same way officers of the reserves will be induced to attend at camps, where they must be of much assistance to those present, and where they themselves will be brought up-to-date.

MR. WILKS: At what age will men be exempt from the reserves? Has it been fixed?

MR. DEAKIN: It is proposed to fix the age at forty years.

MR. ARCHER: Will it not be necessary to offer some inducement?

MR. DEAKIN: In some cases, but I doubt if this inducement will need in the future to be of the same character as at present. Every one will take part, and if we succeed in getting what I call the competitive spirit thoroughly aroused the rest will follow. I feel that I have trespassed upon the patience of the House.

HONOURABLE MEMBERS: No; go on.

MR. DEAKIN: I propose to lay upon the Table a table which will show the extra cost, or, in some cases, the reduced cost, of each and every item in each of the first three years, as compared with the Estimates for the present year. Of course, these are only estimates though they are founded upon actual data now in possession—

#### DETAILS OF ESTIMATED EXPENDITURE.

	1st year.	2nd year.	3rd year.	Estimates, 1907/8.
	£	£	£	£
Central Administration ...	23,000	23,000	23,000	23,000
Headquarters of Military Districts ...	15,000	15,000	15,000	15,254
Ordnance Department ...	22,000	22,000	22,000	21,452
Permanent Troops ...	85,000	65,000	50,000	105,793
Instructional Staff ...	46,000	46,000	46,000	46,388
Accounts and Pay Department ...	6,000	6,000	6,000	6,198
Rifle Range Staff ...	3,000	3,000	3,000	2,654
Total—Permanent Services	200,000	180,000	165,000	220,739
National Guard—Training—				
Pay, including Militia retained	93,000	80,000	90,000	115,489
Clothing, &c. ...	90,000	90,000	90,000	64,197
Camps and Schools of Instruction	39,000	68,000	85,000	30,460
Central School ...	5,000	5,000	5,000	—
Ammunition annually expended	20,000	40,000	60,000	32,203*
Total ...	247,000	283,000	330,000	242,349

Note \*—£32,203 includes annual expenditure on Gun and Rifle Ammunition and Reserve Rifle Ammunition.

	1st year.	2nd year.	3rd year.	Estimates, 1907/8.
	£	£	£	£
Arms ...	100,000	75,000	75,000	106,433
Accoutrements, &c. ...	75,000	100,000	100,000	—
Stores, general contingencies, &c. ...	32,000	28,000	24,000	36,226
Field Artillery, guns, and reserve ammunition.	50,000	50,000	50,000	—
Ammunition, reserve for rifles ...	30,000	30,000	30,000	—†
Works and buildings ...	29,000	29,000	29,000	59,000
Repairs, maintenance, and rents ...	26,000	21,000	16,000	31,668
Total ...	342,000	333,000	324,000	233,327
Grand Total, excluding Rifle Clubs and Cadets.	789,000	796,000	819,000	696,415

I intend to ask the House to order the printing of the memoranda I have read containing the despatch and cables to the Admiralty, Mr. Hake's report, and information relating to submarines. I promised to give the figures showing how the Military and Naval expenditure will work out.

#### GRAND TOTALS.

	This year's Appropriation.		Capital.		
			1st year.	2nd year.	3rd year.
	£		£	£	£
Military ...	1,033,359		1,097,000	1,021,000	1,074,000
Naval Agreement ...	200,000		200,000	200,000	200,000
Local Naval Forces ...	60,524		60,524	60,524	60,524
	1,293,883				
Presumed unexpended balance	125,950	New Naval Expenditure.	357,070	414,140	471,210
	1,419,833		1,714,594	1,695,624	1,605,734

Note \*—Guns are included in arms.

Note †—See Note \*, p. 26.

This table includes expenditure on cadets, rifle clubs, &c., and capital spent upon fixed defences, factories, and works. It will be seen that for this year the actual appropriation proposed is £1,300,000, although £125,000 has been deduced from the full cost, because it is not expected to be expended within the year.

MR. WILKS: That includes the Naval Subsidy, I suppose?

MR. DEAKIN: The total includes everything. During the present year the total expenditure will be £1,300,000. The first year under the new system of National Training will include a capital expenditure on the rifle factory and the ammunition factory, but the total expenditure for that year is not expected to much exceed £1,700,000. That is an increase of about £300,000 on what is provided for this year, or £400,000 on what is proposed to be spent during this year. Next year the total will drop a little below £1,700,000, and in the third year it is expected to fall to £1,600,000, any further capital expenditure not being included.

MR. WILKS: Will that expenditure be paid out of ordinary revenue?

MR. DEAKIN: It will. Consequently, as against the present year's proposed expenditure of £1,400,000, it means in the third year an increase of £200,000, or, allowing for the proportion of the amount on this year's Estimates that we do not expect to expend, it will mean an increase of £325,000. That being so, this scheme which covers both the naval and the military proposals of the Government, including the building of fifteen vessels, the cost of their maintenance, an immense increase in the land forces, an increase in the field artillery, and the expenditure upon fortifications, means, in the third year, according to the best estimates that we can frame, an increase of only £200,000 on our present annual expenditure. If this scheme can be accomplished for that cost as according to our professional advisers we have reason to believe it will be, I do not think the country, having regard to



the transformation to be effected on sea and land, will consider it unduly expensive. Finally, I have not spoken so far of what, after all, we must rely upon as the motive power of the new national system—the motive power of every-day working patriotism, a sense of national unity, and of our indebtedness to this community which confers upon its young people so many advantages denied elsewhere. It asks them in return, not for sacrifices such as are made by conscripts sent to barrack life, but for brief, wholehearted, healthy training. It bids them to be inspired to do more than work for themselves, and to welcome any opportunity of serving the common good. No one will say that open-air training for our young men for three years can do them anything but good. It is not barrack confinement, but camp life under a discipline which will make them brighter men. If this duty be accepted, as we hope, with intelligent interest, and, in many cases, with enthusiasm, even though we hope our National Guard may never be employed in actual warfare, it will become not only a great disciplinary power, but a potent factor in fostering that national spirit on which we rely. Those who have worn the uniform, as many of us have, those who have stood shoulder to shoulder in the ranks answering to the volunteer bugle call know how powerfully even such an outward summons appeals. When national training is recognised as part of our national life, and as the discharge of every citizen's obligation, it will accomplish more. What we must, and do, trust to, are not titles and rewards, but voluntary service freely given, a patriotic discharge of a duty to his country which does honour to the man who renders it, and a greater honour the more efficiently it is accomplished. Without patriotism we can do nothing when we come to actual defence, or even in the necessary training and preparation which go before. From this sentiment I by no means exclude those not required to enlist, because of their sex, who, themselves becoming every year more appreciative of the patriotic purpose of our National Guard, will be moved by its generous character. I am perfectly certain that if the horrible contingency arose our camps in war would never lack for nurses, or for aught that woman's patient loving kindness can bestow. Behind these forces we want, as well as the will of the men of our country, the heart of our women, realizing their part in it, and trained in connexion with our ambulance in sufficient numbers. I am sure we can add them to the list, and with their encouragement we shall soon have another enthusiasm imparted to the young men for their three years' martial training. Ours being a citizen soldiery, should appeal to all our people as no other can. We cast aside meretricious display, the glitter of gold lace, or glamour of a separate caste. We replace them by a high response of confidence in the man who is doing his duty when guarding his home as much as when breadwinning for his family, or fathering his children. It is on patriotic feeling we rely; without this it would be idle to propose a citizen soldiery; otherwise we must buy our defence. But a citizen soldiery, inspired by patriotism, as the world's history shows, has with even partially-armed levies again and again proved better than the best armed mercenaries brought against them. Our ideal is a defence of the people for the people and by the people. It is therefore with every confidence that the Government submits to Parliament and the country for their consideration the programme of naval construction and national training that I have imperfectly outlined.

I beg to present the following papers:—

Naval Defence of Australia.—Correspondence in reference thereto, between the Commonwealth Government and the Admiralty.

Naval Defence.—Opinions with regard to Submarines.

Defence.—Mr. C. Napier Hake's Investigation in England.—Extracts from his Report.

and to move: That the papers be printed.

MR. FISHER (Wide Bay) [9.53].—I do not presume that it is intended to debate this matter at the present stage, but I think we ought not to enter upon the Christmas vacation without offering the Prime Minister our congratulations on the speech he has just delivered. The subject is a big one, and I do not think I have ever heard the honourable member to greater advantage. With such a subject and with such a speaker I have no doubt that when the time comes for the people of this country to defend themselves they will respond as he desires. I offer the Prime Minister my congratulations upon the manner in which he has set forth the defence policy of the Government.

Motion agreed to.

2831

No. 163.

AUSTRALIA.

THE GOVERNOR-GENERAL TO THE SECRETARY OF STATE.

(Received 25th January, 1908.)

[Answered by Nos. 167 and 168.]

(No. 331.)

MY LORD, Governor-General's Office, Melbourne, 24th December, 1907.  
I HAVE the honour to transmit, herewith, for the consideration of His Majesty's Government, copy of a despatch which I have received from my Prime Minister, on the subject of the naval defence of Australia.

I have, &c.,  
NORTHCOTE,  
Governor-General.

Enclosure in No. 163.

MY LORD, Prime Minister, Melbourne, 24th December, 1907.  
I HAVE the honour to inform Your Excellency that, in considering the new defence schemes of the Government, an outline of which was presented to Parliament on the 13th instant, your Ministers are of opinion that one of the most vital considerations is the maintenance of the personnel of an Australian flotilla in the highest attainable efficiency. Since the vessels owned by the Commonwealth must be few and small when compared with those of the Royal Navy, and the number of officers and men correspondingly limited, if our service were isolated their opportunities of promotion and for keeping themselves abreast of the latest naval development in tactics, mechanical appliances, and instruction, must be comparatively very restricted.

2. The present proposals now awaiting discussion aim at securing the same efficiency as that of the Royal Navy by manning the flotilla as far as possible with Australians, who will be to all intents and purposes members of that navy. It is desirable that a preference in Commonwealth ships should be arranged for those born or reared within its borders, providing they qualify for vacancies. All those engaged would, while serving here, receive the extra allowance at present paid to Australians in the squadron on this coast. They would be relieved and replaced regularly at the end of three years or other term fixed by the Admiralty for the crews of His Majesty's ships on the Station. They would follow the same courses of training under precisely the same conditions.

3. By the end of the first Commission it is hoped that a further body of seamen will have been recruited in Australia, so that the vessels of the flotilla might always contain a large proportion of Australians in their complements.

4. While in these seas they would be under officers of the same standing as those holding similar positions in the Royal Navy, and subject to disciplinary laws in all respects analogous to those to which they would be amenable while serving on His Majesty's ships in other parts of the world.

5. The crews of the Australian flotilla, and the flotilla itself, would therefore form in effect an additional branch of the Royal Navy, maintained without cost to the mother country, and preserving its standard of efficiency.

6. Ministers will be greatly indebted if the practical methods of giving effect to this tentative outline of an arrangement can be considered and commented upon by the Lords Commissioners of the Admiralty, in order to guide the Government of the Commonwealth in framing its naval policy of harbour and coast defence.

I have, &c.,  
ALFRED DEAKIN.

Governor-General,  
His Excellency  
The Right Honourable  
Lord Northcote, G.C.M.G., G.C.I.E.,  
&c., &c., &c.



No. 164.

AUSTRALIA.

COLONIAL OFFICE to ADMIRALTY.

SIR,

Downing Street, 28th January, 1908.

WITH reference to the letter from this office of the 24th instant,\* I am directed by the Earl of Elgin to transmit to you, for the consideration of the Lords Commissioners of the Admiralty, copy of a further despatch† from the Governor-General of the Commonwealth of Australia on the subject of the naval defence of the Commonwealth.

2. I am to take this opportunity to forward, for the information of their Lordships, copies of papers‡ on the Naval Defence of Australia recently laid before the Commonwealth Parliament.

I am, &c.,  
H. W. JUST.

2617

No. 165.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Sent 1.45 p.m., 30th January, 1908.)

TELEGRAM.

Referring to your telegram of 24th January,§ questions raised in your telegram of 17th December|| have been under most careful consideration. Information furnished by your Prime Minister's speech enclosed in your despatch, No. 317,¶ and by enclosure in your despatch, No. 331,† necessitates further consideration as to several points, but matter will be expedited as much as possible.—ELGIN.

4926

No. 166.

AUSTRALIA. NEW ZEALAND.

ADMIRALTY to COLONIAL OFFICE.

SIR,

Admiralty, 10th February, 1908.

I HAVE laid before my Lords Commissioners of the Admiralty your letter of the 20th December, No. 44065/07,\*\* forwarding a further telegram dated 17th idem from the Governor-General of the Commonwealth of Australia on the subject of the proposed revision of the Australasian Naval Agreement.

As suggested by the Secretary of State, their Lordships make the following observations on the points raised in the telegram with a view to the same being communicated in a despatch to the Governor-General.

As regards increased cost to the Royal Navy my Lords fully understand that the Commonwealth Government do not wish to add by their scheme to the charges already falling upon the British Exchequer in connection with the maintenance of the fleet on the Australian station, but, as indicated in the telegram to the Governor-General of 13th December,†† the proposals made by the Commonwealth Minister would involve the maintenance in Australian waters at the cost of the British Exchequer of certain vessels over and above what might still be considered necessary for Imperial purposes on the station, and might entail the construction of other ships specially to take their places, the number of vessels of this class in the navy being limited.

The question of the actual cost cannot, however, be satisfactorily dealt with and considered until details of the scheme suggested by the Commonwealth Government have been worked out. Such a statement should show definitely the number and class of vessels proposed to be maintained in commission and reserve on the

\* 2617: not printed.

† No. 163.

‡ Commonwealth Parliamentary Papers, No. 143 F—15765, and No. 144 F—16069.

§ 2617: a reminder of No. 160.

|| No. 160.

¶ No. 162.

\*\* No. 161.

†† No. 157.

coast of Australia, the arrangements for their manning, training, distribution, and general administration, and also the question of pay and pensions of the personnel and other expenses, where the co-operation and assistance of the Royal Navy are involved.

As stated in previous correspondence, my Lords are not in a position to consent to the appropriation of the four P. Class cruisers asked for at the present time, and they do not therefore propose to go more fully into this question in this letter; moreover, it is now understood that the Commonwealth Government do not press this part of their proposals.

Since the receipt of the telegram of the 17th December,\* a copy of the report† of the speech of the Prime Minister in the House of Representatives on the 12th December has been received. From this report it appears that Mr. Deakin proposes to spend £250,000 a year for three years upon the construction of 9 submarines and 6 destroyers, and that this appropriation would be in addition to the £200,000 now voted under the Naval Agreement. Of the latter sum, £100,000 would be devoted to the maintenance of 1,000 Australian seamen, while the remainder apparently would be applied towards the cost of upkeep, &c., of the new local defence force to be created. The present Colonial naval militia force appears to be left undisturbed under the new scheme.

The number of officers and men required to man such a force of 9 submarines and 6 destroyers with the necessary reserves may be estimated at about 650, and on this calculation a considerable proportion of the 1,000 Australians proposed to be maintained would be required to man the local defence force, leaving only some 350 for service in the Royal Navy. Without further enquiry it is not possible to state whether a force so distributed would lend itself to the requirements of service and training in the fleet as indicated in Mr. Deakin's speech, but on the assumption that the above estimate would represent generally the future arrangement, my Lords do not see any insuperable difficulty in coming to an agreement on this part of the scheme.

Of course it is understood that during the transitional period between the present and new arrangement some temporary difficulties would have to be met, but their Lordships would endeavour to make special arrangements to provide during such period for the training and employment of the permanent crews now entered.

With regard to the subject of the control of the local naval force in time of war, my Lords consider it of great importance that there should be no misunderstanding, and they had hoped that the discussion which took place at the interview between Mr. Deakin and the representatives of the Admiralty on the 24th April last made the position sufficiently clear.

In time of peace the different self-governing dominions comprised in the British Empire have power to maintain and employ for harbour defence and for police purposes armed ships and vessels in their own waters; they have also a limited power to maintain and employ ships of war for wider duties, provided that an Order of His Majesty in Council is obtained as provided for in the Colonial Naval Defence Act of 1865 (28 and 29 Vic. Cap. 14). In time of war the circumstances are entirely changed, and as under International Law there is only one executive authority in the British Empire capable of being recognised by foreign states, Colonial ships of war cannot operate independently of the Royal Navy except to the limited extent referred to above.

The executive power of the Crown as the central authority of the British Empire must be applied as regards foreigners in the same manner and under the same conditions wherever a military or naval force is in existence, and the same responsibility for any action taken by Colonial or home ships of war will rest upon this central authority. It is essential, therefore, that officers commissioned by His Majesty should have full power and responsibility in accordance with their rank, wherever they may happen to be serving. Accordingly it follows that not only must the local force when associated with the Royal Navy recognise orders given by the Admiralty or Naval Commander-in-Chief, but also that their officers must submit to the command of any senior naval officer during the time they are in company with him.

While, therefore, my Lords recognise the force of the contention as a general

\* No. 160.

† Enclosure in No. 162.



principle that the Government of a self-governing Colony should have power to control in its own waters the movements of the local force it maintains, and that this force should not be moved away from Colonial waters without the concurrence of the responsible Government, yet in the conduct of operations of a warlike nature it would be of vital importance that the vessels should come under the general command of the Commander-in-Chief on the station and be subject to his orders and directions.

It would be obviously impracticable for any defensive operations to be carried out satisfactorily without that close co-operation which unity of direction secures, and my Lords are glad to notice that Mr. Deakin in his speech before referred to expressed the opinion that in the event of operations in Australian waters the Commonwealth vessels would in almost every imaginable circumstance be placed wholly under the control of the Commander-in-Chief for the time being.

It was understood at the Conference that the Colonial Ministers recognised that it would be an advantage to the fleet to be able to rely upon the existence of a force of destroyers and submarines in the waters of distant parts of the Empire, but this advantage would be much diminished if the vessels are not in time of emergency to be placed under the command of the Commander-in-Chief or Senior Naval Officer.

With regard to the cancelling of the Agreement, as stated in Admiralty letter of the 7th December,\* my Lords await the decision of the Governments of Australia and New Zealand, and it is not their intention to take the initiative in the matter. My Lords, are, however, ready to assist the Colonial Governments in carrying out such schemes of co-operation in local naval defence as they may decide upon, and they regard it as necessary that there should be a certain transitional period during which certain of the existing arrangements would be continued; but this period would only last until the new order of things should come into being, when all obligations arising out of the agreement would lapse.

For the carrying out of the new arrangement my Lords did not contemplate the passing of any Act of Parliament, either here or in the Colonies, in order to give effect to the understanding that may be arrived at with regard to the future relations between the Australian local force and the Royal Navy. The terms would be elastic and capable of adjustment from time to time by inter-communication between the two Governments.

I am to add that in making the foregoing observations my Lords presume that a satisfactory arrangement may be capable of being arrived at with the Dominion Government of New Zealand, which is a party to the present agreement.

I am, &c.,  
W. GRAHAM GREENE.

2224

No. 167.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(No. 46.)

MY LORD,

Downing Street, 11th February, 1908.

I HAVE the honour to acknowledge the receipt of Your Excellency's despatch, No. 317, of the 18th of December last,† enclosing a report of a speech by your Prime Minister on the question of defence.

I have read Mr. Deakin's important speech with much interest and have communicated copies of it to the Admiralty and the Army Council.

I have, &c.,  
ELGIN.

\* No. 154.

† No. 162.

4926

No. 168.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Copy to Admiralty, 18th February, 1908. L.F.]

[Answered by No. 170.]

(No. 53.)

MY LORD,

Downing Street, 14th February, 1908.

WITH reference to your despatch No. 331, of the 24th December and my despatch, No. 46, of the 11th instant,\* on the subject of the Australasian Naval Agreement, I have the honour to transmit to Your Excellency, to be laid before your Ministers, copy of a letter† from the Admiralty dealing with the points raised in your telegram of the 17th December last.‡

I have, &c.,  
ELGIN.

4926

No. 169.

NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR.

[Copy to Admiralty, 18th February, 1908. L.F.]

(No. 24.)

MY LORD,

Downing Street, 14th February, 1908.

WITH reference to my despatch, No. 114, of the 13th of December last,§ I have the honour to transmit to you, for the information of your Ministers, copies of further correspondence|| with the Governor-General of Australia on the subject of the proposed revision of the Australasian Naval Agreement.

I have, &c.,  
ELGIN.

11598

No. 170.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 1.40 p.m., 1 April, 1908.)

TELEGRAM.

[Answered by Nos. 172 and 178.]

Referring to your despatch, No. 53, 14th February,¶ Ministers feel obliged by Admiralty despatch but, before replying or consulting New Zealand or publishing, would be glad to know whether arrangement approved for future relations Royal Navy and local forces is intended to be made for any, and what, period to cover any, and what, matters contained ? in articles of existing agreement.

Ministers would also be obliged if, when convenient, some estimate could be supplied of number of Australian seamen, if any, required to be maintained in excess of 1,000 to meet requirements of service and training in the fleet, and also to be furnished with draft arrangements for manning, training, distribution, general administration, pay, pensions, and other expenses which the Admiralty advise in order that Australian flotilla proposed (in) Prime Minister's speech\*\* might secure cooperation and assistance of the Royal Navy referred to in your despatch.—NORTHCOTE.

\* Nos. 163 and 167. † No. 166. ‡ No. 160. § No. 159. || Nos. 160, 163, and 168. ¶ No. 168.  
\*\* See Enclosure in No. 160.



No. 171.

NEW ZEALAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 21 April, 1908.)

[Answered by No. 173.]

(No. 13.)

MY LORD,

Wellington, 17 March, 1908.

It is with much satisfaction that I have the honour to enclose herewith a copy of a memorandum, which I have received from my Prime Minister, stating that the New Zealand Government propose to increase the subsidy made by this Dominion to the Imperial Navy from £40,000 to £100,000 per annum.

2. Your Lordship will observe that my Government in making this announcement expressly state that, realising the vital importance to New Zealand and the Empire generally of the Imperial Navy being under the sole control of those responsible for its direction, they do not seek to suggest any conditions regarding the location of His Majesty's ships in these waters.

I have, &c.,  
PLUNKET,  
Governor.

Enclosure in No. 171.

Prime Minister's Office,

Wellington, New Zealand, 16 March, 1908.

MEMORANDUM FOR HIS EXCELLENCY THE GOVERNOR.

The Prime Minister presents his compliments and desires that His Excellency will inform the Imperial Authorities that the New Zealand Government proposes to increase its subsidy to the Australian-New Zealand squadron to the sum of one hundred thousand pounds per annum, after the first October next. This date is so fixed in order to give Parliament an opportunity of ratifying what is now proposed.

Recognising how important it is for the protection of the Empire that the Navy should be at the absolute disposal of the Admiralty, Your Excellency's Advisers do not desire to suggest any conditions as to the location of the ships, as they are confident that the truest interests of the people of New Zealand will be best served by having a powerful Navy under the independent control of those responsible for directing it in time of peace or war. What the Government does feel concerned in is that the Navy, in whatever part of the world it may be, should be under one control, so that the most effective results for the defence of all portions of the Empire may be assured.

It may not be found convenient to alter the present Naval Agreement, but the sixty thousand pounds additional proposed will be paid to the British Government whether the Agreement is altered or not. If it is considered necessary to alter the present Agreement Your Excellency's advisers will be glad to know in what direction this should be done.

J. G. WARD.

11598

No. 172.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Sent 5.45 p.m., 21 April, 1908.)

TELEGRAM.

[Copy to Admiralty, 21 May, 1908. L.F.]

21 April. Your telegram 1 April,\* Naval Agreement. Matter was referred

\* No. 170.

at once to Admiralty, who have it under consideration with view to supply, if possible, desired information, but there may be some further inevitable delay in sending reply.—CREWE.

14054

No. 173.

NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR.

(Sent 5.20 p.m., 27 April, 1908.)

TELEGRAM.

Your despatch, No. 13,\* subsidy to Imperial Navy. I am gladly communicating the proposal of your Government to the Admiralty, but wish at once to express my sincere appreciation of the action which is being taken and of the cordial and generous terms of the Prime Minister's memorandum.—CREWE.

14054

No. 174.

NEW ZEALAND.

COLONIAL OFFICE to ADMIRALTY.

[Answered by No. 175.]

SIR,

Downing Street, 27th April, 1908.

I AM directed by the Earl of Crewe to transmit to you, to be laid before the Lords Commissioners of the Admiralty, copy of a despatch\* from the Governor of New Zealand expressing the intention of his Government to raise to £100,000 a year the contribution made by New Zealand towards the cost of the Royal Navy while not seeking to impose any conditions regarding the location of His Majesty's ships in their waters, together with copy of the telegraphic acknowledgment† sent to Lord Plunket.

2. Lord Crewe proposes, with the concurrence of their Lordships, to express to the New Zealand Government the great satisfaction with which His Majesty's Government have learned of the desire of the Dominion Government to increase their contribution to the cost of the naval defence of the Empire and their readiness to leave the disposition of the fleet to the discretion of the Admiralty.

I am, &c.,  
C. P. LUCAS.

19140

No. 175.

NEW ZEALAND.

ADMIRALTY to COLONIAL OFFICE.

(Received 28 May, 1908.)

[Answered by L.F. transmitting copies of Nos. 177, 179, and 181.]

SIR,

Admiralty, 27 May, 1908.

I HAVE laid before my Lords Commissioners of the Admiralty your letter of the 27th ultimo, No. 14054/1908,† forwarding a copy of a despatch from the Governor of New Zealand expressing the intention of the Government of the Dominion to raise to £100,000 a year the contribution made by them towards the cost of the Royal Navy.

I am commanded to request that you will inform the Secretary of State for the Colonies that their Lordships fully concur with the cordial expression of thanks which Lord Crewe has caused to be telegraphed to the Governor, and they note with much satisfaction that the additional payment is unaccompanied by any condition whatever as to the location of His Majesty's ships in New Zealand waters.

\* No. 171.

† No. 173.

‡ No. 174.



With reference to the concluding paragraph of Sir J. Ward's memorandum, my Lords think it opportune to refer to the position taken up by the Admiralty at the Colonial Conference of last year. The Admiralty do not desire to initiate any proposal to alter the existing agreement, but at the same time they will be ready to co-operate in any considered arrangement which the Governments of Australia and New Zealand may prefer to substitute for the agreement, and it will be for the Australian Government to approach the New Zealand Government on the subject.

Their Lordships presume that a further communication will be received as to the time and manner of paying the additional £60,000, when the proposal has been approved by the New Zealand Parliament.

I am, &c.,  
W. GRAHAM GREENE.

19406

No. 176.

AUSTRALIA.

ADMIRALTY to COLONIAL OFFICE.

(Received 29 May, 1908.)

SIR,

Admiralty, 29 May, 1908.

I HAVE laid before my Lords Commissioners of the Admiralty your letter of the 3rd April (No. 11598),\* forwarding copy of a telegram† from the Governor-General of the Commonwealth of Australia on the subject of the revision of the Naval Agreement.

It appears to my Lords that the Commonwealth Ministers have misapprehended in part their Lordships' letter of the 10th February last.‡

In the last paragraph but one of that letter, my Lords expressed the view, that if the present agreement is cancelled, the arrangement which might take its place need not be embodied in an Act of Parliament, and that the requirements would be met by an undertaking between the two Governments sufficiently elastic in its terms as to be capable of adjustment from time to time by the procedure of ordinary negotiation and discussion. Their Lordships did not have in mind any particular period nor any particular conditions, whether new in character or already embodied in the existing agreement; in their opinion the terms of any new agreement must depend upon the nature of the understanding arrived at, and until this has been settled it would be premature to discuss the period during which the arrangement should be in force, or the matters to be embraced in it.

With regard to the number of Australian seamen to be maintained, the question would depend upon the scheme contemplated by the Australian Government. The remarks made in Admiralty letter of the 10th February‡ were based on the scheme outlined by the Prime Minister, as far as it could be understood from the telegraphic correspondence and Mr. Deakin's speeches.

If a scheme were carried out on the lines indicated, the number of officers and men required actually to man the destroyer and submarine flotillas is estimated to amount to at least 650, and in order to maintain that number in a state of efficiency, probably as many more would have to be provided.

Whether even this number would permit of a systematic exchange of ratings between the Australian flotillas and the Imperial fleet would depend upon the conditions that the Commonwealth Government might wish to impose as regards the length of service in home waters, &c., and without a full exposition of the details of the scheme itself, it is very difficult for the Admiralty to give any useful advice. It was for this reason that the suggestion was made that a statement should be prepared showing definitely the vessels to be maintained in Australian waters and the general arrangements for the organisation of the local force.

My Lords feel, however, that at such a great distance apart as Australia is from the United Kingdom it is practically impossible to discuss matters of detail, and therefore they have given instructions for a scheme to be elaborated on lines as nearly as possible approaching those sketched by Mr. Deakin, and as soon as this is prepared they will forward the same for the consideration of the Commonwealth Government.

\* Not printed.

† No. 170.

‡ No. 166.

Their Lordships desire me to point out that the working out of a very complicated scheme such as this is bound to be, must take a considerable time, as difficult questions constantly present themselves; they trust, therefore, that the Australian Ministers will not infer that no effort is being made to meet their wishes because some weeks may pass before a reply can be sent.

I am, &c.,  
W. GRAHAM GREENE.

19140

No. 177.

NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR.

(Sent 6.40 p.m., 29 May, 1908.)

TELEGRAM.

[Copy to Admiralty, 3 June, 1908. L.F.]

My telegram 27 April.\* Please express to your Ministers the great satisfaction with which His Majesty's Government have learned of the decision of Dominion Government to increase their contribution to the naval defence of the Empire and their readiness to leave disposition of fleet to decision of Admiralty.—CREWE.

19406

No. 178.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(No. 170.)

MY LORD,

Downing Street, 29 May, 1908.

WITH reference to my telegram of the 21st April,† I have the honour to transmit to you, for the information of your Ministers, copy of a letter‡ from the Admiralty dealing with the questions raised in your telegram of the 1st ultimo§ in connection with the proposed modification of the Naval Agreement.

I have, &c.,  
CREWE.

19140

No. 179.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Copy to Admiralty, 3 June, 1908. L.F.]

(No. 172.)

MY LORD,

Downing Street, 29 May, 1908.

I HAVE the honour to transmit to Your Excellency, for the information of your Ministers, with reference to previous correspondence regarding the naval agreement, copy of correspondence|| with the Governor of New Zealand on the subject of the decision of the Dominion Government to increase to £100,000 a year the contribution of New Zealand to the naval defence of the Empire, while leaving the disposition of the fleet to the decision of the Lords Commissioners of the Admiralty.

I have, &c.,  
CREWE.

\* No. 173.

† No. 172.

‡ No. 176.

§ No. 170.

|| Nos. 171, 173, and 177.



19406

No. 180.

## NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR.

(No. 90.)

MY LORD,

Downing Street, 29 May, 1908.  
 WITH reference to my despatch, No. 24, of 14th February last,\* I have the honour to transmit to you, for the information of your Ministers, copies of further correspondence† as noted in the margin, relative to the proposed modification of the Naval Agreement.

Lord Northcote, Telegram, 1 April.  
 To Lord Northcote, Telegram, 21 April.  
 Admiralty, 29 May.  
 To Lord Northcote, No. 170, 29 May.

I have, &c.,  
 CREWE.

19140

No. 181.

## NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR.

[Copy to Admiralty, 3 June, 1908. L.F.]

(No. 92.)

MY LORD,

Downing Street, 29 May, 1908.  
 WITH reference to my telegram of the 29th of May,‡ I have the honour to transmit to you, for the information of your Ministers, copy of a letter§ from the Admiralty on the subject of the decision of the Dominion Government to increase to £100,000 a year the contribution of New Zealand to the defence of the Empire.

2. I have forwarded a copy of the correspondence with your Lordship to the Governor-General of the Commonwealth of Australia for the information of His Excellency's Ministers.

I have, &c.,  
 CREWE.

20300

No. 182.

## AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Sent 4.15 p.m., 5 June, 1908.)

[Copy to Admiralty, 9 June, 1908. L.F.]

## TELEGRAM.

My telegram 21st April.|| Admiralty letter sent by last mail states that proposed scheme involves questions of detail which are very difficult to settle by telegraph, but Admiralty are drafting a full scheme for consideration based generally on what was understood to be views of your Government. Some time, however, must elapse before it is ready, and then it will be necessary to send it by mail.—  
 CREWE.

\* No. 169. † Nos. 170, 172, 176, and 178. ‡ No. 177. § No. 175. || No. 172.

## XV.

## Naval and Military Defence, Cape and Natal.

20159

No. 183.

CAPE OF GOOD HOPE: NATAL.  
 ADMIRALTY to COLONIAL OFFICE.

(Received 7th June, 1907.)

[Answered by No. 186.]

SIR,

Admiralty, 3rd June, 1907.

WITH reference to your letter of the 10th May last, No. 16056,\* on the subject of the constitution of the Cape Naval Volunteer Force, I am commanded by my Lords Commissioners of the Admiralty to acquaint you that an opportunity has been taken of the presence of the Ministers of the Cape Government in this country to discuss with them the draft of the Bill for the establishment of the Cape Naval Volunteers as a division of the Royal Naval Volunteer Reserve.

The Bill has been referred to the Legal Advisers of the Admiralty and some amendments have been made as shown in the copy sent herewith.

A copy of the Bill† as so revised was communicated to the Honourable Dr. Smartt, Commissioner of Public Works in the Cape Ministry, before he and Dr. Jameson, the Prime Minister, left England on their return to South Africa, and it was understood that the action to be taken by the Cape Government would be considered on their return.

In these circumstances my Lords propose to await a communication from the Colonial Government before proceeding to take the further steps necessary in this country. As stated in Admiralty letter of the 8th November, 1906,‡ it will be necessary that an Act should be passed in the Imperial Parliament extending the provisions of the Colonial Act beyond the limits of the Colony.

I am to add that from the statements made in the course of the recent Conference it appears likely that the Natal Government will follow the example of the Cape Government in proposing to obtain legislative authority for the organisation of the Natal Naval Volunteers into a branch of the Royal Naval Volunteer Reserve.

I am, &c.,  
 C. I. THOMAS.

20159

No. 184.

CAPE OF GOOD HOPE.

THE SECRETARY OF STATE to THE GOVERNOR.

[Answered by No. 185.]

(No. 94.)

SIR,

Downing Street, 14th June, 1907.

I HAVE the honour to acknowledge the receipt of your despatch, No. 101, of the 16th of April,§ and to inform you that the enclosed draft of a Bill† for the establishment of the Cape Naval Volunteers as a division of the Royal Naval Volunteer Reserve has been submitted to the Lords Commissioners of the Admiralty. I enclose a copy of their Lordship's reply|| for communication to your Ministers.

I have, &c.,  
 ELGIN.

\* Not printed. † Enclosure in No. 5 in Miscellaneous No. 208. ‡ 41565: not printed. § 16056: not printed. || No. 183.



40230

No. 185.

## CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 16th November, 1907.)

(No. 322.)

MY LORD,  
Camp, Klipkraal,  
Richmond, Cape Colony, 26th October, 1907.  
REFERRING to your Lordship's despatch, No. 94, of 14th June,\* and to previous correspondence on the subject of the establishment of the Cape Naval Volunteers as a division of the Royal Naval Volunteer Reserve, I have to report that a Bill, revised in accordance with the amendments suggested by the Legal Advisers of the Admiralty, was introduced into the Cape Parliament last session, but that it was not found possible to bring it forward for discussion.

2. I have now received from Ministers a Minute, of which a copy is enclosed, in which Ministers state that they propose to re-introduce the Bill at the next meeting of Parliament, and that the members of the force have unanimously signed an agreement to the following effect:—

"To serve within and beyond the territorial limits of the Colony, and either ashore or afloat, and to be liable when on actual service or when being temporarily borne on the books of any of His Majesty's ships and vessels for instruction, training, or exercise, afloat or ashore, to all and several the provisions of any Imperial Statute relating to Naval Discipline for the time being in force."

3. Ministers ask that under these circumstances the Lords Commissioners of the Admiralty may be pleased to place the "Odin" at the disposal of the Cape Colonial Division of the Volunteer Reserve, and consent to the terms provisionally agreed to by Lord Tweedmouth, the cost to be borne from the naval contribution of Natal and of the Cape Colony.

I have, &amp;c.,

WALTER HELY-HUTCHINSON.

Enclosure in No. 185.

MINISTERS to GOVERNOR.

(Minute No. 1/597.)

Prime Minister's Office, Cape Town, 24th October, 1907.

Ministers have the honour to state, for the information of His Excellency the Governor, that at the recent Colonial Conference held in London, the Right Honourable the First Lord of the Admiralty—on condition that the Naval Bill, copy of which was submitted for transmission to the Admiralty under cover of Minute No. 1/236 of the 12th April, 1907, and was, with slight amendment, approved of by that Department, would be introduced and passed by this Parliament—stated there would be no difficulty in the Cape Naval Volunteers being treated as a branch of the Royal Naval Volunteer Reserve, and the following terms agreed to, subject to the Imperial Parliament authorising the application of the Colonial Act beyond the Colony or Colonies and the territorial water of the same, viz.:—

- (1.) The authorization of the prefix "Royal."
- (2.) The sanction of the Admiralty to the uniform being worn by the Corps previous to the passage of the Bill.
- (3.) To arrange for the placing of a vessel at the disposal of the force, and to give all possible assistance towards the training of the Volunteers, it being understood that the necessary expenditure in connection with the upkeep of the ship should be defrayed by the Colonies from the

\* No. 184.

subsidies at present paid by the Cape of Good Hope and Natal Governments if the Parliaments of these Colonies so decide.

In informing His Excellency that, owing to pressure of business, it was found impracticable to carry the Bill through during the last session, Ministers propose to re-introduce it at the next meeting of Parliament, but in the meantime beg to request that the Lords Commissioners of the Admiralty may be informed that the members of the force have unanimously signed an agreement to the following effect:—

"To serve within and beyond the territorial limits of the Colony and either ashore or afloat, and to be liable when on actual service or when being temporarily borne on the books of any of His Majesty's ships and vessels for instruction, training, or exercise, afloat or ashore, to all and several the provisions of any Imperial Statute relating to naval discipline for the time being in force."

In view of this circumstance and the fact that unless the corps is encouraged and assisted to maintain its efficiency it will not be of such practical utility as was intended, and seeing that Natal has already adopted the Bill approved by the Admiralty, and has complied with the requirements of the agreement above referred to so far as that Government is concerned, and is, as your Ministers understand, anxious that the other parties should carry out their obligations and enable the "Odin" to be placed at their disposal, Ministers on behalf of the Government of this Colony, are prepared to agree to carry out this part of the contract as though the Bill had already passed, and have the honour to ask His Excellency to communicate with the Imperial Government, and prefer the request that, although the Naval Bill has not yet been passed by the Parliament of this Colony, the Lords Commissioners of the Admiralty may be pleased to place the "Odin" at the disposal of the Cape Colonial Division of the Royal Naval Volunteer Reserve and consent to the terms provisionally agreed to by Lord Tweedmouth, the cost to be borne from the Naval contribution of Natal and this Colony.

Ministers are loth to apply for these concessions in view of their having been unable to obtain the assent of Parliament to the Bill, but they feel that a valuable force is in embryo, and its services may be lost to the Empire should no definite action be taken prior to the re-assembly of Parliament, and they hope that, in view of the agreement as to service signed by all ranks, His Majesty's Government may see fit to favourably entertain their proposals.

T. W. SMARTT.

40230

No. 186.

## CAPE OF GOOD HOPE.

COLONIAL OFFICE to ADMIRALTY.

[Answered by No. 188.]

SIR,

Downing Street, 28th November, 1907.

WITH reference to your letter of the 3rd of June,\* I am directed by the Earl of Elgin to transmit to you, to be laid before the Lords Commissioners of the Admiralty, a copy of a despatch† from the Governor of Cape Colony, respecting the establishment of the Cape Naval Volunteers as a division of the Royal Naval Volunteer Reserve. Lord Elgin would be glad to learn whether, in the circumstances stated, their Lordships are prepared to accede to the request of the Cape Ministers that the "Odin" may be placed at the disposal of the Cape Colonial Division of the Volunteer Reserve.

A press report‡ of the debate on the Naval Volunteers in the recent session of the Cape Parliament is enclosed for information and return after perusal.

I am, &amp;c.,

H. W. JUST.

\* No. 183.

† No. 185.

‡ Not printed.



No. 187.

NATAL.

COLONIAL OFFICE to ADMIRALTY.

[Answered by No. 189.]

SIR,

Downing Street, 17th December, 1907.

WITH reference to the last paragraph of the letter from the Admiralty of the 3rd June,\* I am directed by the Earl of Elgin to transmit to you, to be laid before the Lords Commissioners, the accompanying copy of an Act† which has been passed by the Legislature of Natal to permit of the enrolment of a force of Naval Volunteers in that Colony. Copies of the Acts relating to the Militia,‡ which are referred to in the body of the Act, together with the Act§ providing for the contribution of the sum of £35,000 annually to His Majesty's Navy are enclosed for convenience of reference.

Lord Elgin proposes, subject to any observations which the Lords Commissioners of the Admiralty may have to offer, to inform the Governor that His Majesty will not be advised to exercise his power of disallowance with regard to this Act.

I am, &amp;c.,

H. W. JUST.

273

No. 188.

CAPE OF GOOD HOPE: NATAL.

ADMIRALTY to COLONIAL OFFICE.

(Received 4th January, 1908.)

[Answered by No. 191.]

SIR,

Admiralty, 3rd January, 1908.

I HAVE laid before my Lords Commissioners of the Admiralty your letter, No. 40230, of the 28th November,|| enclosing copy of a despatch from the Governor of Cape Colony in regard to the Cape Naval Volunteers.

It is stated in the accompanying Memorandum by Dr. Smartt that the Cape Government did not find it practicable to carry the proposed Naval Volunteers Bill during the recent session of the Cape Parliament, and the request is made that, notwithstanding the failure to pass the measure, H.M.S. "Odin" may be placed at the disposal of the Cape Naval Volunteers, the cost to be borne out of the Naval contribution of Natal and the Cape Colony, on the understanding that the Bill is re-introduced at the next meeting of Parliament.

In reply, I am to request that you will inform the Secretary of State that their Lordships regret, for reasons which have been already explained, they cannot accede to this proposal, which departs from the arrangement of May last, as conveyed to Dr. Smartt by Admiralty letter of 16th May, 1907,¶ and that it is necessary to await the passing of the requisite legislation before they can proceed to consider the matter in the direction indicated in that letter.

I am, &amp;c.,

GEO. H. HOSTE,

pro. Secretary.

274

No. 189.

CAPE OF GOOD HOPE: NATAL.

ADMIRALTY to COLONIAL OFFICE.

(Received 4th January, 1908.)

[Answered by No. 191.]

SIR,

Admiralty, 3rd January, 1908.

I HAVE laid before my Lords Commissioners of the Admiralty your letter of

\* No. 183. † No. 33 of 1907. ‡ Nos. 36 of 1903, 30 of 1905 and 36 of 1906. § No. 5 of 1903.  
|| No. 186. ¶ No. 5 in Miscellaneous No. 208.

the 17th December, No. 42818,\* enclosing copy of an Act passed by the Legislature of Natal Colony to authorise the enrolment in the Colony of a Division of the Royal Naval Volunteer Reserve on the lines suggested at the recent Colonial Conference.

My Lords desire me, in reply, to point out, for the information of the Secretary of State, that the Act as finally passed goes beyond the terms of the Bill originally drafted and agreed to by their Lordships, inasmuch as since the last draft Bill was received from the Colonial Office on the 15th October last,† a new Section (5) appears to have been inserted, which is worded as follows:—

"All expenditure incidental to the carrying out of the provisions of this Act and arising therefrom shall in each year be defrayed out of the contribution of Thirty-five Thousand Pounds (£35,000) towards the annual expenditure by the Imperial Government in connection with His Majesty's Naval Service provided for under Act No. 5, 1903, and in so far as the payment of such expenditure is concerned the said Act No. 5, 1903, shall be read and construed as part of this Act."

My Lords did not anticipate the insertion in the Act of a section in these terms without previous communication with the Secretary of State, seeing that it virtually supersedes the Navy Contribution Act of 1903, and also contains provisions beyond what was discussed and agreed to by the Prime Minister of Natal and the First Lord of the Admiralty in April and May last.

The arrangement then agreed to is contained in correspondence with Dr. Smartt, who at the time was dealing with the question of the Naval Volunteers on behalf both of the Cape and Natal Governments. It was definitely stated by the Admiralty, in answer to Dr. Smartt's specific enquiry, that—

"(a) So soon as the Cape Parliament has passed a Bill placing the Cape Naval Volunteers in the same position as regards service and discipline as the Royal Naval Volunteer Reserve established in the United Kingdom, the Admiralty will take steps at once to authorise the Cape Government to treat the Naval Volunteers as a branch of the Royal Naval Volunteer Reserve, with the right to wear a similar uniform, it being understood that this arrangement must be provisional until an Act of the Imperial Parliament has been passed authorising the application of the Colonial Act beyond the Colony or Colonies and the territorial waters of the same.

"(b) So soon as the necessary legislation has been passed the Admiralty will endeavour to arrange to place a vessel at the disposal of the Colonial Division of the Royal Naval Volunteer Reserve for the purposes of training the Naval Volunteers, but without any pledge as to providing a crew for the same, and also to give all possible assistance towards the training of the Volunteers, it being understood that the necessary expenditure in connection with the upkeep of the ship is defrayed by the Colonies and be reserved in the meantime out of the present Cape and Natal subsidies if the Colonial Parliaments so decide.

There was no suggestion at the time that the Colonial contribution would be appropriated for the payment of the expenses of the Naval Volunteers, except provisionally to the extent of the upkeep of the training ship, should one be lent by the Admiralty for the training of the Cape and Natal Naval Volunteers. As regards the future, it was left to the Cape and Natal Governments to put forward proposals for applying the colonial contribution and any other funds that might be voted towards local naval defence purposes, but generally speaking the discussions at the Conference pointed to the appropriation of Colonial votes to provide for Coast Defence Flotillas and not for the maintenance of volunteers.

As before stated, my Lords are ready to consider any arrangement which the Colonial Governments may deem to be most suitable to their present requirements, but before expressing acquiescence in the appropriation for the expenses of the Natal Naval Volunteers of the contribution previously payable to the Imperial Exchequer, they would be glad to be informed of the full scope of the scheme contemplated by the Natal Government, i.e., the number of volunteers to be raised, the arrangements for their organisation and training, and whether in close connection



with the Cape Naval Volunteers. With regard to the latter, it may be observed that the Cape Government have not yet passed the requisite Bill.

I am further to enquire whether the Natal Government propose to consider, either independently or in communication with the Cape Government, the question of establishing a flotilla of destroyers or submarines for coast defence.

I am, &c.,  
GEO. H. HOSTE,  
pro Secretary.

2122

No. 190.

NATAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 18th January, 1908.)

[Answered by No. 193.]

(No. 223.)

MY LORD,

Government House, Pietermaritzburg,  
Natal, 24th December, 1907.

WITH reference to the discussion which took place at the Colonial Conference on the 23rd of April last, on the subject of Naval Defence and to communications that passed about that time between Lord Tweedmouth, on behalf of the Admiralty, Mr. F. R. Moor, on behalf of the Colony of Natal, and Dr. Smartt, on behalf of the Cape Colony, I have the honour to enclose a copy of a minute, dated the 17th instant, addressed to me by Mr. Moor, and in accordance with this minute to request that the Lords Commissioners of the Admiralty be asked now to set aside the training ship "Odin" for the training of the Natal and Cape Naval Volunteers, and to give all possible assistance towards this training. The Natal Naval Volunteers have at present a peace establishment of six officers and eighty-five men of other ranks, while the Cape Naval Volunteers are apparently being enrolled under the conditions laid down in a Bill which has been introduced into, but owing to certain political changes has not yet passed, the Cape Legislature. This Bill is on the lines of the Natal Act No. 33 of 1907, of which authenticated copies accompanied my despatch, No. 205, dated the 12th November, 1907.\*

2. I have also to request that any legislation that may be necessary to give effect to that enacted in the Colonies and to the expressed intention of the Admiralty to recognise the Natal and Cape Colony Naval Volunteers as a branch of the Royal Naval Volunteer Reserves, may be introduced into the Imperial Parliament when a convenient opportunity occurs.

I have, &c.,  
M. NATHAN.

Enclosure in No. 190.

PRIME MINISTER to HIS EXCELLENCY THE GOVERNOR.

MINUTE.

During my visit to London in the early part of this year I discussed with the Admiralty authorities, in conjunction with the Honourable Doctor Smartt, Commissioner, Public Works, Cape Colony, the question of the enrolment in the Cape and Natal of a force in each Colony to form a division of the Royal Naval Volunteer Reserve established under the Imperial Statute 3. Edw. VII., Cap. 6., to serve in His Majesty's Royal Navy, and in connection with this scheme the following assurances were given by the First Lord of the Admiralty, viz. :—

- (a) That as soon as the Colonial Parliaments pass legislation placing the local Naval Volunteers in the same position as regards service and discipline as the Royal Naval Volunteer Reserve established in the United Kingdom, the Admiralty will take steps at once to authorise the Governments of Cape Colony and Natal to treat the Naval Volunteers

\* 42818 : not printed.

as a branch of the Royal Naval Volunteer Reserve, with a right to wear a similar uniform. It being understood, however, that this arrangement must be subject to the passing of an Act by the Imperial Parliament sanctioning the application of the Colonial Act beyond the Colony or Colonies and the territorial waters of the same.

- (b) That as soon as the necessary legislation has been passed the Admiralty will endeavour to arrange to place a vessel at the disposal of the Colonial Division of the Royal Naval Volunteer Reserve for the purpose of training the Naval Volunteers—but without any pledge as to providing a crew for the same—and also to give all possible assistance towards the training of the volunteers.
- (c) That the necessary expenditure in connection with the upkeep of the training ship will be defrayed by the Colonies and be reserved, in the meantime, out of the present Cape and Natal subsidies.

2. A Bill containing the necessary provisions required by the Admiralty and stipulating that all expenditure incidental to the carrying out of the provisions of the Act shall be defrayed from the Natal contribution to the Navy, was accordingly introduced and passed during the last session of the Natal Parliament, and has been duly promulgated in the Government Gazette.

3. A similar Bill was simultaneously introduced into the Cape Legislative Assembly, but owing to the dissolution of the Cape Parliament, it was unfortunately impossible to get the Bill through, but it is understood that the measure will again be introduced during the first session of the new Parliament, which will assemble about the middle of next year. Ministers have been informed that a minute from the Cape Government has already gone forward pointing out these circumstances, and asking that, in view of the fact that the Natal Legislature has passed its measure, the Admiralty may be moved to agree to place the training ship "Odin," now on the Cape Station, at the disposal of the Cape and Natal Volunteers, in accordance with the understanding arrived at in London.

4. As it is desirable that joint action should be taken in this connection, I should be much obliged if Your Excellency would cause a communication to be sent to the Admiralty, through the Secretary of State for the Colonies, requesting that the vessel referred to may be set aside for the training of the Naval Volunteers of the two Colonies—notwithstanding the fact that the Cape Act has not yet been passed—and also that all possible assistance may be given towards the training of the Volunteers. Ministers are advised that the Cape Volunteers have already signed on under the conditions laid down in the Bill introduced into the Cape Parliament.

5. Ministers would also ask that any necessary legislation may be introduced into the Imperial Parliament to confirm the assurances given by the First Lord of the Admiralty as conveyed in Mr. Graham Green's letter of the 16th May last.\*

F. R. MOOR,  
Prime Minister.

17th December, 1907.

2122

No. 191.

NATAL: CAPE OF GOOD HOPE.  
COLONIAL OFFICE to ADMIRALTY.

[Answered by No. 192.]

SIR,

Downing Street, 28th January, 1908.

WITH reference to your letters of the 3rd instant,† and previous correspondence, I am directed by the Earl of Elgin to transmit to you, to be laid before the Lords Commissioners of the Admiralty, a copy of a despatch‡ from the Governor of Natal requesting that their Lordships may be moved to set aside H.M.S. "Odin" for the training of the Cape and Natal Naval Volunteers.

I am to enquire whether, in view of the fact that both Colonies are anxious to proceed without delay with the training of Naval Volunteers, it is not possible to

\* No. 5 in Miscellaneous No. 208.

† Nos. 188 and 189.

‡ No. 190.



take steps for setting aside a vessel for the purpose, even though the undertaking made on behalf of the Cape Government has as yet not been fully carried out.

I am, &c.,  
C. P. LUCAS.

6194

No. 192.

NATAL. CAPE OF GOOD HOPE.  
ADMIRALTY to COLONIAL OFFICE.

(Received 21 February, 1908.)

[Copy to Governor, Cape, 27 February, 1908. No. 34. L.F.]

[Answered by No. 195.]

SIR,

I HAVE laid before my Lords Commissioners of the Admiralty your letter of the 28th January (No. 2122/07-8),\* forwarding copy of a despatch from the Governor of Natal in which the Admiralty are requested to set aside the "Odin" for the training of the Cape and Natal Naval Volunteers, although the Government of the former Colony has not yet passed the necessary legislation.

2. In reply, I am desired by their Lordships to acquaint you, for the information of the Secretary of State, that it was part of the understanding arrived at last spring with the representatives of the Cape and Natal Governments, that these two Governments should co-operate with regard to the organisation and training of a body of Naval Volunteers on the lines of the Royal Naval Volunteer Reserve maintained in the United Kingdom, and that they should, in the first instance, pass the requisite bills for carrying out in the Colonies the changes in legislation necessary to give effect to the scheme.

3. The position now is that the Natal Government have passed an Act for the purpose in question, while the Cape Government have failed to do so; on the other hand, the Cape Volunteers have been already organised on the lines of the Royal Naval Volunteer Reserve, while the Natal Volunteers so far as is known here still retain their old organisation. There is thus as yet no common ground on which the Admiralty can negotiate with the two Governments with regard to the initiation of the new scheme, and their Lordships have been obliged to refuse an application from the Cape Government similar to that now under reply.

4. So far as the Cape Government are concerned, although no definite promise has been made to hand over this particular ship, the "Odin" is, for the time being, virtually at the disposal of the Cape Naval Volunteers, and it is merely a matter of local convenience whether the ship lies at Simon's Town or at Cape Town; accordingly, looking to the number of volunteers at present enrolled, My Lords consider that as regards the Cape Naval Volunteers no serious inconvenience will be caused by the continuance for some time longer of the present arrangement.

5. In respect of the Natal Naval Volunteers, my Lords understand that the force had not yet been re-organised to meet the new conditions of service, and that much remains to be done before they can be incorporated as a division of the Royal Naval Volunteer Reserve.

6. While, therefore, their Lordships are ready to assist as far as possible in facilitating the training of the Natal Volunteers, yet it would not be practicable to remove the "Odin" from Simon's Town under present conditions, and any volunteers desiring to undergo training on board her would have to proceed to that port for the purpose.

Should this be at all feasible, it is suggested that the Commanding Officer should place himself in communication with the Commander-in-Chief of the Cape of Good Hope Station on the subject, with a view to some temporary arrangements being made.

I am, &c.,  
W. GRAHAM GREENE.

\* No. 191.

6194

No. 193.

NATAL.

THE SECRETARY OF STATE to THE GOVERNOR.

[Copy to Governor, Cape, 27 February, 1908. No. 34. L.F.]

[Answered by No. 196.]

(No. 21.)

Downing Street, 22 February, 1908.

SIR,

I HAVE the honour to acknowledge the receipt of your despatch, No. 223, of the 24th of December,\* respecting the provision of one of His Majesty's ships for the training of the Cape and Natal Naval Volunteers.

Your Ministers will observe, from the enclosed copy of a letter† from the Admiralty on the subject, that although there is as yet no common ground on which the Board can negotiate with the Cape and Natal Governments with regard to the initiation of the new arrangements affecting the Naval Volunteers, the "Odin" is now virtually at the disposal of the Naval Volunteers at Simons Town.

I shall be glad to learn whether it is found possible, pending a definite settlement, for the Natal Volunteers to take advantage of the suggestion made in the last paragraph of the Admiralty letter that any of their members desiring to undergo training should proceed to Simons Town for the purpose.

I have, &c.,  
ELGIN.

17792

No. 194.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 6.35 p.m., 17 May, 1908.)

TELEGRAM.

[Answered by Nos. 201 and 202.]

17 May. No. 1. Referring to your despatch, No. 23A of 17th February,† Ministers inform me that they are prepared to introduce Naval Volunteers Bill next session with a view to its being passed, provided Admiralty do not object to cost of maintenance of force in addition to cost of upkeep of vessel being defrayed from £50,000 naval contribution. Following clause proposed to be inserted in Bill:—

"All expenditure incidental to carrying out of provisions of this Act and arising therefrom shall in each year be defrayed out of the contribution of £50,000 towards the annual expenditure by the Imperial Government in connexion with Navy provided for under Acts 20 of 1898 and 14 of 1902 and in so far as the payment such expenditure is concerned the said Acts shall be read and construed as part of this Act."

Ministers ask for early reply by cable.—HELY-HUTCHINSON.

17792

No. 195.

CAPE OF GOOD HOPE.

COLONIAL OFFICE to ADMIRALTY.

[Answered by No. 198.]

SIR,

Downing Street, 22 May, 1908.

WITH reference to your letter of the 20th of February,† I am directed by the Earl of Crewe to transmit to you, to be laid before the Lords Commissioners of the Admiralty, a copy of a telegram§ from the Governor of Cape Colony, respecting the

\* No. 190.

† No. 192.

‡ 273: not printed.

§ No. 194.



condition on which his Ministers are prepared to introduce the Naval Volunteers Bill during the next session of the Cape Parliament.

I am to observe that the present depression in South Africa appears to prevent the Cape and Natal Governments from entering on the consideration of a scheme of local naval defence on the lines contemplated in the discussion in connection with last year's Conference, so far at least as such a scheme would entail the voting of further funds; and Lord Crewe would, therefore, be glad to learn that their Lordships are prepared to accept Ministers' proposals.

I am to request that an early reply may be returned to this letter.

I am, &c.,

H. W. JUST.

18627

No. 196.

NATAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 23 May, 1908.)

[Copy to Admiralty, 29 May, 1908. L.F.]

[Answered by No. 203.]

(No. 67.)

MY LORD,

King's House, Durban, Natal, 30 April, 1908.

REFERRING to Lord Elgin's despatches, No. 15 A., dated the 17th February,\* on the subject of "The Naval Volunteers Act, 1907," and No. 21, dated the 22nd February,† respecting the provision of one of His Majesty's ships for the training of the Cape and Natal Naval Volunteers, I have the honour to report that Ministers here are holding over their replies to these despatches pending action in the Cape Colony with respect to the introduction of legislation to give effect to the offer made by the Admiralty authorities to Dr. Smartt and Mr. Moor, when they were in London last year.

Mr. Moor hopes to be able to advance this matter by discussing it with Mr. Merriman during the Inter-Colonial Conference, which is to meet in Pretoria next week.

I have, &c.,

M. NATHAN.

18677

No. 197.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 23 May, 1908.)

[Copy to Admiralty, 29 May, 1908. L.F.]

(Secret.)

MY LORD,

Government House, Cape Town, 6 May, 1908.

I HAVE not as yet received from Ministers any official communication with regard to the announcement (reported in the fourth paragraph of my confidential despatch, Parliamentary, No. 1, of 28th April‡), that the Naval Volunteers would be disbanded from 30th June.

2. I find, however, that on 28th April a deputation waited on Mr. de Waal, the Colonial Secretary, on the subject; and that subsequently Mr. de Waal addressed a letter to Dr. Smartt, who introduced the deputation, informing him that "the Government has decided to defer the disbandment of the Naval Volunteers pending the result of certain negotiations which are being opened with the Imperial Government regarding the maintenance of the force."

3. I enclose a newspaper report of the proceedings of the deputation, a copy of Mr. de Waal's letter to Dr. Smartt, and an article extracted from the "Cape Times"§ on the subject.

\* 274: not printed.

§ "Cape Times," 29th April, 1908. "South African News," 2nd May, 1908. "Cape Times," 2nd May, 1908: not reprinted.

† No. 193.

‡ 17695: not printed.

4. I gathered from a private conversation which I had with Mr. Merriman on this subject, before he left for Pretoria, that the estimate of expenditure for 1908-1909 (which includes the Naval Vote of £50,000 and the Naval Reserve Vote of £1,400) exceeds the estimate of revenue by something like £500,000; and that any possible increases in, or additions to, taxation, will not nearly fill the gap. I gathered that it was extremely probable that he would, in the end, feel obliged to insist on disbandment of the Naval Volunteers.

5. Mr. de Waal's reply to Dr. Smartt is understood to mean that Ministers would agree to maintaining the Naval Volunteers, provided that His Majesty's Government would permit the diversion of part of the Colonial Naval contribution towards their upkeep. I have not received any formal suggestion from Ministers on this subject. They have, indeed, as reported in my secret despatch of 16th April,\* suggested that the contribution should be used towards providing the new gun-emplacements at Lion's Rump; and I know that Ministers have been gravely considering whether they may not be obliged to ask His Majesty's Government to allow the contribution to be suspended altogether, until times improve. On the other hand, I am informed confidentially, by the Admiral, that the contribution for 1908-09 has already been earmarked, in the Admiralty Estimates, for certain specific services. Supposing that the contribution for 1908-09 be continued, and that His Majesty's Government were to allow the cost of the Naval Volunteers to be charged against it, the sums to be charged would be, roughly, as follows:—

Gun-emplacements (if completed by 30th June, 1909) ...	£18,000
Expense of Naval Reserve ...	1,400
Total ...	£19,400;

besides the cost of fitting up the "Odin" and defraying the cost of an adequate nucleus crew, of coal, supplies, and so forth. This item would, no doubt, be considerable. I am unable to state exactly to what it would amount.

I have, &c.,

WALTER HELY-HUTCHINSON.

19843

No. 198.

CAPE OF GOOD HOPE. NATAL.

ADMIRALTY to COLONIAL OFFICE.

(Received 1 June, 1908.)

[Answered by L.F. transmitting copies of Nos. 201 and 202.]

SIR,

Admiralty, 30 May, 1908.

I HAVE laid before my Lords Commissioners of the Admiralty your letter of the 22nd instant, No. 17792,† forwarding copy of a telegram from the Governor of the Cape Colony in which His Majesty's Government are invited to concur in the insertion in the Naval Volunteer Bill of a clause providing that all expenditure connected with the Naval Volunteer Force to be established under the Bill shall be defrayed out of the annual contribution of £50,000 payable to the Imperial Exchequer towards the expenses of His Majesty's Navy.

My Lords understand that this provision, which is practically identical with that already passed by the Natal Government, is intended to meet the present depression in the finances of the Colony and that otherwise it is not proposed to modify the scheme which was discussed with the Prime Ministers of the Cape and Natal at the Colonial Conference last year. In these circumstances my Lords are of opinion that, seeing that the Admiralty announced last year their readiness to co-operate in any considered schemes of local naval defence which the Colonial Government might desire to substitute for the existing arrangements, it is not open to them to object to the present proposal of the Cape Government.

At the same time, as stated in Admiralty letter of the 3rd January last,‡ in connection with the Natal Act, their Lordships consider it very important that the

\* 15648: not printed.

† No. 195.

‡ No. 189.



Cape and Natal Governments should put forward for consideration the arrangements which they may propose to make for the establishment of the local Naval Volunteers as branches of the Royal Naval Volunteer Reserve, and also state in what manner the Governments propose that the financial details connected with the payment of the expenses of the volunteers out of the sum hitherto payable to the Imperial Exchequer shall be dealt with in future.

It must be borne in mind that provision has been made in the Navy Estimates for the year 1908-9 for the full amount of the contribution hitherto payable by the Cape and Natal Governments.

It must further be understood that the Admiralty cannot undertake any direct responsibility for the administration of the Cape and Natal divisions of the Royal Naval Volunteer Reserve, and that their co-operation must be limited to affording such assistance in regard to training afloat, inspection, and general supervision as the circumstances of His Majesty's Naval Service may permit.

I am, &c.,  
C. I. THOMAS.

20616

No. 199.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 6 June, 1908.)

[Copy to Admiralty, 23 June, 1908. L.F.]

(No. 106.)

MY LORD, Government House, Pretoria, 17 May, 1908.  
WITH reference to my telegram, No. 1, of to-day,\* and to previous correspondence on the subject of the Cape Naval Volunteers, I transmit a copy of the minute from Ministers on which my telegram of to-day was based.

I have, &c.,  
WALTER HELY-HUTCHINSON.

Enclosure in No. 199.

MINISTERS to GOVERNOR.

(Minute. No. 1/260.)

Prime Minister's Office, Cape Town, 13 May, 1908.

Adverting to their predecessors' minute, No. 1/597, of the 24th October, 1907, Ministers have the honour to state that they are prepared to introduce the "Naval Volunteers Bill" with a view of its being passed during the coming session of Parliament, upon learning that the Lords Commissioners of the Admiralty will have no objection to the cost of maintenance of this force, in addition to the cost of upkeep of a vessel, being defrayed from the annual contribution of £50,000 paid by this Colony towards the expenditure on the Royal Navy.

Should the Lords Commissioners offer no objections to this course being pursued, Ministers propose, subject to their concurrence, to add a clause similar, *mutatis mutandis*, to that embodied in the Natal Act, which will read as follows, viz.:—

"All expenditure incidental to the carrying out of the provisions of this Act and arising therefrom shall in each year be defrayed out of the contribution of fifty thousand pounds (£50,000) towards the annual expenditure by the Imperial Government in connection with His Majesty's Naval Service provided for under Acts No. 20 of 1898 and No. 14 of 1902, and in so far as the payment of such expenditure is concerned the said Acts Nos. 20 of 1898 and 14 of 1902 shall be read and construed as part of this Act."

Ministers would be glad if they could be afforded an early reply by cable in order that no time may be lost in introducing the Bill.

JOHN X. MERRIMAN.

\* No. 194.

20633

No. 200.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 6 June, 1908.)

[Copy to Admiralty, 23 June, 1908. L.F.]

(Secret.)

MY LORD, Government House, Pretoria, 17 May, 1908.

IN continuation of my secret despatch of 6th May,\* it will be seen from my telegram, No. 1, of to-day,† and from my despatch, No. 106, of to-day,‡ that Ministers have reconsidered their determination to disband the Naval Volunteers, and are prepared to maintain the force, provided that the cost of its maintenance and of the upkeep of H.M.S. "Odin" may be charged against the £50,000 Naval contribution.

2. I expect to receive a further communication from Ministers as regards the balance of the contribution, against which they have already asked to be allowed to charge the cost of the gun emplacements at the Lion's Rump.

I have, &c.,  
WALTER HELY-HUTCHINSON.

19843

No. 201.

CAPE OF GOOD HOPE.

THE SECRETARY OF STATE to THE GOVERNOR.

(Sent 1.25 p.m., 10 June, 1908.)

TELEGRAM.

[Copy to Admiralty, 19 June, 1908. L.F.]

10th June. No. 2. Your telegram, 17th May, No. 1,† Naval Volunteers Bill. Admiralty concur generally. Despatch§ follows by mail conveying Admiralty's observations.—CREWE.

19843

No. 202.

CAPE OF GOOD HOPE.

THE SECRETARY OF STATE to THE GOVERNOR.

[Copy to Admiralty, 19 June, 1908. L.F.]

(No. 116.)

SIR, Downing Street, 19 June, 1908.

IN my telegram of the 10th June,|| I had the honour to acquaint you, for the information of your Ministers, that the Lords Commissioners of the Admiralty concurred generally in the proposal of your Government to insert in the Naval Volunteers Bill a clause providing that expenditure connected with the Naval Volunteer Force, to be established under the Bill, should be defrayed out of the annual contribution of £50,000 payable to the Imperial Exchequer towards the expenses of the Imperial Navy.

The Lords Commissioners understand that this provision, similar to that already passed by the Natal Government, has been adopted in consequence of the present depression in the finances of the Colony, of which His Majesty's Government have learnt with regret, and that otherwise it is not proposed to modify the scheme which was discussed with the Prime Ministers of the Cape and Natal at the Colonial Conference last year.

In accordance with that scheme their Lordships, though they do not undertake direct responsibility for the administration of the Colonial divisions of the Royal

\* No. 197.

† No. 194.

‡ No. 199.

§ See No. 202.

|| No. 201.



Naval Reserve, will always be glad to co-operate by affording such assistance in regard to training afloat, inspection, and general supervision as the circumstances of His Majesty's Naval Service permit.

Their Lordships hope to be informed in due course of the full scope of the scheme contemplated, i.e., the number of volunteers to be raised, the arrangements for their organisation and training, and whether in close connexion with the Natal Volunteers, and it would also be convenient that they should know in what manner the Governments propose that the financial details connected with the payment of the expenses of the volunteers out of the sum hitherto payable to the Imperial Exchequer shall be dealt with in future.

Copies of this despatch, of my telegram, No. 2, of the 10th instant,\* and of your telegram, No. 1, of the 17th ultimo,† are being forwarded to the Governor of Natal for the information of his Ministers.

I have, &c.,  
CREWE.

19843

No. 203.

NATAL.

THE SECRETARY OF STATE TO THE GOVERNOR.

(No. 101.)

SIR,

Downing Street, 19 June, 1908.

I HAVE the honour to acknowledge the receipt of your despatch, No. 67, of the 30th April,‡ respecting the Natal Naval Volunteers, and to transmit to you, for the information of your Ministers, copies of correspondence§ with the Governor of the Cape of Good Hope on the subject of the Naval Volunteers in that Colony.

I have, &c.,  
CREWE.

XVI.

Profits on Silver Currency and Decimal Coinage.

27932

No. 204.

AUSTRALIA.

THE GOVERNOR-GENERAL TO THE SECRETARY OF STATE.

(Received 6th August, 1907.)

[Copy to Treasury, 14th August, 1907. L.F.]

[Answered by No. 206.]

(No. 156.)

MY LORD,

Governor-General's Office, Melbourne, 3rd July, 1907.

I HAVE the honour to forward, herewith, a despatch addressed to me this day by my Prime Minister on the subject of the redemption of worn gold coin at each of the Australian Mints, also respecting the concession in regard to subsidiary coinage, referred to in paragraph 3 of Mr. Lyttelton's despatch, No. 209, dated 30th October, 1903.||

I have, &c.,  
NORTHCOTE,  
Governor-General.

\* No. 201. † No. 194. ‡ No. 196. § Nos. 194, 201, and 202. || 38825: not printed.

Enclosure in No. 204.

(P.M. 07/2830.)

MY LORD,

Melbourne, July 3, 1907.

I HAVE the honour to invite Your Excellency to be so good as to remind the Secretary of State for the Colonies that at the recent Imperial Conference it was agreed that the Commonwealth should have the profit on its subsidiary coinage, and that the Imperial Government should redeem worn gold coin at each of the Australian Mints, on terms identical with those on which such coins are redeemed in London.

2. It is desired that the Secretary of State be informed that Your Excellency's Ministers intend to take advantage of the concession in respect of subsidiary coinage, but before introducing legislation on the subject wish to ascertain whether the Imperial authorities will, from time to time, advise this Government as to the places to which silver and bronze coins now in circulation may be exported. It is not proposed that such export shall exceed the rate of £100,000 per annum mentioned in paragraph 3 of Mr. Lyttelton's letter of 30th October, 1903, to Your Excellency, and subsequent correspondence.

3. It is desired also that the Imperial authorities may express their willingness to pay face value for any such coin which may be so much worn as to be unfit for export.

4. I shall be pleased if Your Excellency will be so good as to also intimate to the Secretary of State that it is not intended at present to establish a Commonwealth Mint, and that Ministers presume that the offer to allow Australian coinage to be undertaken by the Royal Mint in London, as conveyed in the Treasury letter of 30th July, 1904, No. 12,686/1904, still holds good.

5. Will Your Excellency also kindly inform Lord Elgin that Ministers will be glad to know the date on which the arrangement for the redemption of worn gold coin in Australia will come into operation.

I have, &c.,  
ALFRED DEAKIN.

Governor-General

His Excellency

The Right Honourable

Lord Northcote, G.C.M.G., G.C.I.E.,

&amp;c., &amp;c., &amp;c.

43583

No. 205.

AUSTRALIA.

TREASURY TO COLONIAL OFFICE.

(Received 14th December, 1907.)

SIR,

Treasury Chambers, 13th December, 1907.

THE Lords Commissioners of His Majesty's Treasury have had under consideration your letter of the 14th August (No. 27932/1907),\* and enclosed copy of a despatch† from the Governor-General of the Commonwealth of Australia, respecting the proposed establishment of a subsidiary silver coinage for the Commonwealth and the redemption of worn gold coin at the Australian branches of the Royal Mint.

In reply their Lordships direct me to acquaint you, for the information of the Secretary of State for the Colonies, that arrangements are being made for the acceptance of light gold coin at the Australian Mints on and after the 1st April, 1908. In explanation of the date which has been fixed upon for this purpose, I am to state that the Coinage Fund which was set apart by Parliament for the redemption of light gold coin in this country under the Coinage Act, 1891, will be exhausted by the operations of the current year. It is proposed to ask Parliament to make annual provision for the service in the Vote for the Mint, and the cost of redemption

\* Not printed.

† No. 204.



of the light gold coin withdrawn at the Branch Mints will be similarly provided as from the beginning of the next financial year.

The Order in Council now in force under the Coinage Act, 1891, requires that light gold to be redeemed under the provisions of that Act shall be presented at the Bank of England. An amendment of the Order is necessary to enable the coins withdrawn in Australia to be accepted at the Branch Mints, and my Lords are taking steps to secure the passing of an Order in Council for this purpose.

The Prime Minister of the Commonwealth enquires as to the places to which token coins may be exported, and as to the willingness of His Majesty's Government to redeem at face value the worn token coins which may be unfit for export. In reply I am to state that the worn coins will continue to be received by the Branch Mints at their face value as heretofore. In addition, the Branch Mints will be authorised to accept token coins to the face value of £100,000 in all in each year, and to issue in exchange for them coins of the new Australian currency of the same nominal value. This arrangement will probably be found most convenient for the Commonwealth Government as well as for the Mint, and no question as to the export of the withdrawn coins need arise.

My Lords note that there is no present intention of establishing a Commonwealth Mint, and they desire me to state that the services of the Royal Mint will be at the disposal of the Commonwealth Government for the manufacture at cost price of the proposed new coinage.

I am, &c.,  
G. H. MURRAY.

43583

No. 206.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Answered by Nos. 208 and 210.]

(No. 320.)

MY LORD,

Downing Street, 18th December, 1907.

I DULY laid before the Lords Commissioners of the Treasury Your Excellency's despatch, No. 156, of the 3rd July last,\* respecting the proposed establishment of a subsidiary silver coinage for the Commonwealth and the redemption of worn gold coin at the Australian branches of the Royal Mint.

2. I have now the honour to transmit to you, for the information of your Ministers, copy of a letter† from the Treasury, from which they will perceive that arrangements are being made for the acceptance of light gold coin at the Australian Mints on and after 1st April, 1908.

3. It will also be seen that worn token coins will continue to be received by the Branch Mints at their face value as heretofore.

4. The Branch Mints will also be authorised to accept token coins to the face value of £100,000 in each year, and to issue in exchange for them coins of the proposed new Australian currency of the same nominal value as soon as it has been decided to introduce the new currency; and the services of the Royal Mint will be placed at the disposal of the Commonwealth Government for the manufacture of the new coins at cost price.

5. I shall, no doubt, hear, in due course, whether your Government adhere to the view expressed in your despatch, No. 52, of 14th March, 1905,‡ as to the desirability of the new coinage in Australia being introduced on a decimal basis. Your Ministers will remember that the question of decimal currency was discussed at the recent Colonial Conference.

I have, &c.,  
ELGIN.

\* No. 204.

† No. 205.

‡ 13392: not printed.

43583

No. 207.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL and GOVERNORS.

(Canada. No. 47.)

(Cape of Good Hope. No. 11.)

(Natal. No. 8.)

(Transvaal. No. 23.)

(Orange River Colony. No. 9.)

(New Zealand. No. 14.)

(Newfoundland. No. 10.)

MY LORD,  
SIR,

Downing Street, 30th January, 1908.

WITH reference to the discussions as to coinage which took place at the Colonial Conference and which are reported at pages 190-192, 546, 547 of [Cd. 3523],

I have the honour to transmit to Your Excellency, for the information of your

Ministers, printed copies of correspondence\* with the Treasury and the Governor-General of the Commonwealth of Australia on the subject of the proposed establishment of a subsidiary silver coinage for the Commonwealth and the redemption of worn gold coin at the Australian branches of the Royal Mint.

I have, &c.,  
ELGIN.

6615

No. 208.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 9.15 a.m., 24 February, 1908.)

TELEGRAM.

[Answered by telegram, 31 March (10939): not printed.]

Proposals contained in your despatch of 18th December† for redeeming worn token coins at face value and issuing new Australian coins in exchange for remainder of British coins, are not understood. Do proposals mean, in effect, that British Government will withdraw and pay face value for all British token coins now circulating in Australia?—NORTHCOTE.

10939

No. 209.

AUSTRALIA.

TREASURY to COLONIAL OFFICE.

(Received 28 March, 1908.)

SIR,

Treasury Chambers, 27 March, 1908.

I HAVE laid before the Lords Commissioners of His Majesty's Treasury Sir C. Lucas's letter (6615) of the 25th ultimo,‡ and its accompanying copy of a telegram§ from the Governor-General of Australia, relative to the redemption of British token coins circulating in the Commonwealth.

In reply, I am directed to suggest, for the consideration of the Earl of Elgin, that it should be explained to the Governor-General that the offer of His Majesty's Government is gradually to redeem all British token coin at its face value, provided that the amount to be withdrawn in any one year (in addition to worn coin which is withdrawn under existing arrangements) shall not exceed the face value of £100,000.

\* Nos. 204, 205, and 206.

† No. 206.

‡ Not printed.

§ No. 208.



It will be for the Commonwealth Government to arrange the method of withdrawal, and the silver will be paid for at its nominal value at the Branch Mints.

With regard to the issue of the new Australian silver coinage, the procedure which my Lords contemplate would be similar to that adopted by the Dominion of Canada. The representative of the Commonwealth Government in London will inform the Royal Mint of the amount of coinage required, and on the requisition of the Royal Mint will purchase the necessary silver bullion. The Commonwealth Government will pay the charges for manufacture when notified that the coinage is ready for delivery, and will also bear all cost of freight from the Royal Mint.

I am to add that the suggestion in this Board's letter, of the 13th December last,\* that the new Australian coins would be issued in exchange for British coins withdrawn, has probably been misunderstood, as implying that the withdrawn coins would be paid for by that exchange. The coins withdrawn will be paid for at their face value, and the finances of the two operations can be kept distinct. But it will no doubt be convenient to the Commonwealth Government to take supplies of new coins to fill the place of the old ones as they are withdrawn.

I am, &c.,  
G. H. MURRAY.

11395

No. 210.

AUSTRALIA.

THE SECRETARY OF STATE TO THE GOVERNOR-GENERAL.

(No. 118.)

MY LORD,

Downing Street, 3 April, 1908.

WITH reference to my telegram of the 31st of March,† I have the honour to enclose, for the information of Your Excellency's Ministers, copy of a letter‡ from the Treasury on the subject of the redemption of British token coins circulating in the Commonwealth.

2. I have at the same time to enclose copy of the Order in Council,§ dated the 19th of March, providing for the exchange of light gold coins at Branches of the Royal Mint, and have to inform you that the Branches at Melbourne and Sydney have been appointed for the purposes indicated in this Order. The Deputy-Masters of these Branches have received the necessary instructions in the matter.

I have, &c.,  
ELGIN.

11395

No. 211.

THE SECRETARY OF STATE TO THE GOVERNOR-GENERAL AND GOVERNORS.

(Canada. No. 195.)

(Natal. No. 54.)

(New Zealand. No. 57.)

(Transvaal. No. 89.)

(Newfoundland. No. 61.)

(Orange River Colony. No. 41.)

(Cape. No. 62.)

MY LORD,

Downing Street, 10 April, 1908.

SIR, WITH reference to my despatch, No. [47], [14], [10], [11], [8], [23], [9], of the 30th of January,|| I have the honour to transmit to Your Excellency, for the information of your Ministers, copy of an Order in Council,§ dated the 19th of March, providing for the exchange of light gold coins at Branches of the Royal Mint.

2. I have to add that the Branch Mints at Melbourne and Sydney have been appointed for the purpose indicated in this Order.

I have, &c.,  
ELGIN.

## XVII.

## Stamp Duties upon Colonial Securities.

23326

No. 212.

NEW SOUTH WALES.

THE GOVERNOR TO THE SECRETARY OF STATE.

(Received 29 June, 1908.)

(No. 54.)

MY LORD,

State Government House, Sydney, 18 May, 1908.

I HAVE the honour to transmit, herewith, for your Lordship's earnest consideration, copy of a minute, with enclosure,\* which I have received from my Premier, urging the abolition of stamp duties upon issues of all Colonial Government securities.

2. This matter received the careful attention of Premiers and Ministers assembled at the late Conference in Melbourne, and the abolition of stamp duties upon issues of Colonial Government securities was advocated and urged by all present.

I have, &c.,  
HARRY H. RAWSON,  
Governor.

Enclosure in No. 212.

MINUTE FOR HIS EXCELLENCY THE GOVERNOR.

Abolition of Stamp Duties upon Issues of Colonial Government Securities.

The Premier begs leave to advise His Excellency the Governor that the subject of the heavy charges pressing upon the Governments of the States of the Australian Commonwealth in the shape of stamp duty levied on all issues of their stock and debentures in Great Britain received consideration at the Conference of Premiers and Ministers of the various States which sat in Melbourne recently.

The duties in question are, it is understood, 12s. 6d. per centum for compound-ing stamp duty upon inscribed stock, and 17s. 6d. per centum on uninscribed stock. As a result of the deliberations of the Conference, it was unanimously decided that the Imperial Government should be respectfully approached with a request that the desired relief be afforded all Colonial Governments, upon the broad principle that the various Administrations affected are carrying out the King's Government in their respective spheres, and that the imposition of the duties in question amounts to the Crown taxing the Crown.

The resolution passed by the Conference is in the following terms, namely:—

"That it is desirable that stamp duties upon the issue of all Colonial Government securities should be abolished by the Imperial and all Colonial Governments, and that a copy of this resolution be conveyed to each Government affected."

It remains to be added that the various Australian State Governments affected will be prepared to act in obedience to the terms of the resolution, in the event of His Majesty's Government seeing fit to concede the principle contended for by the Conference.

A detailed report of the discussion which led up to the adoption of the resolution above recited is forwarded, herewith, and the Premier will be glad if His Excellency will be so good as to make the necessary representations in the matter to the Right Honourable the Secretary of State for the Colonies, and, at the same time, urge that the principle sought to be established receive favourable consideration.

C. G. WADE.

Premier's Office,  
Sydney, 14 May, 1908.

\* Not printed.



XVIII.  
Copyright.

12713

No. 213.

NEW ZEALAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 9.10 a.m., 11th April, 1907.)

TELEGRAM.

In reply to your despatch, Miscellaneous, 11th January,\* copyright, my Government raise no objection to action proposed.—PLUNKET.

14764

No. 214.

NEWFOUNDLAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 27th April, 1907.)

(No. 57.)

MY LORD, Government House, St. John's, 8th April, 1907.  
REFERRING to your despatch, Miscellaneous, of 11th January last,\* relating to the subject of copyright, I have the honour to transmit herewith a letter which I have received containing the remarks made upon the above-mentioned subject by the Attorney-General, Sir Edward Morris.

I have, &c.,  
WM. MACGREGOR.

Enclosure in No. 214.

SIR, Colonial Secretary's Office, St. John's, Newfoundland, 3rd April, 1907.  
REFERRING to your favour of the 5th February, covering despatch, Miscellaneous, of date 11th January last, from the Right Honourable the Secretary of State for the Colonies, in relation to the subject of copyright, I have the honour to state that the Minister of Justice has now forwarded a report upon the clauses proposed to be inserted in the Imperial Act applying the provisions of the same to British Possessions.

Sir Edward Morris remarks, with reference to Clause C, 2 (c), to which Your Excellency directed attention, that such is already the law of the Colony, as are also Clause C, 2 (a), except as regards Orders in Council, and Clause C, 2 (b).

The Minister of Justice does not see any objection to the draft clauses proposed to be inserted in Literary and Artistic Copyright Bills for applying them to British Possessions.

I have, &c.,  
ARTHUR MEWS,  
Deputy Colonial Secretary.

His Excellency  
Sir William MacGregor, K.C.M.G., C.B.,  
&c., &c., &c.,  
Governor.

\* No. 2 in Section XIX. of Miscellaneous No. 195.

No. 215.

NATAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 4th May, 1907.)

[Answered by No. 217.]

(No. 49.)

Government House, Pietermaritzburg,  
Natal, 8th April, 1907.

MY LORD,

WITH reference to your despatch, Miscellaneous, of the 11th January last,\* transmitting copies of clauses which it is proposed to insert in Literary and Artistic Copyright Bills for applying them to British Possessions, I have the honour to inform you that, before expressing any opinion on the draft clauses, Ministers would be glad if the objections raised by the Governments of certain Responsible Government Colonies to the corresponding clauses in the old Bills, referred to in the second paragraph of your despatch, as well as their present attitude to the proposed clauses could be furnished for the information of this Government.

I have, &c.,  
HENRY McCALLUM.

17812

No. 216.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 18th May, 1907.)

(No. 122.)

MY LORD,

Government House, Cape Town, 25th April, 1907.  
IN reply to your despatch, Miscellaneous, of 11th January,\* I transmit a Minute which I have just received from Ministers, forwarding a report from the Attorney-General on the subject of the clauses which it is proposed to insert in Literary and Artistic Copyright Bills for applying them to British Possessions.

2. Ministers concur in the Attorney-General's report, which is to the effect that the draft clauses satisfy the main objections originally submitted; but that there are essential differences between them and the recently enacted Cape Statute, No. 46 of 1905. The Attorney-General states, however, that the consideration of those differences may be postponed for the present.

3. I enclose a copy of the Act No. 46 of 1905† for facility of reference.

I have, &c.,  
WALTER HELY-HUTCHINSON.

Enclosure in No. 216.

(No. 1/267.)

MINUTE.

Prime Minister's Office, Cape Town, 24th April, 1907.

Ministers have the honour to acknowledge the receipt of His Excellency the Governor's Minute, No. 94, of the 30th January, 1907, forwarding copy of a despatch from the Right Honourable the Secretary of State for the Colonies, transmitting the text of certain clauses proposed to be inserted in Literary and Artistic Copyright Bills for applying them to British Possessions.

In reply, Ministers beg to forward to His Excellency, for the favour of transmission to the Secretary of State, a short report by the Attorney-General on the draft clauses in question, with the terms of which Ministers concur.

E. H. WALTON.

\* No. 2 in Section XIX. of Miscellaneous No. 195.

† Not reprinted.



## REPORT of the Attorney-General.

Attorney-General's Office, Cape Town, 23rd April, 1907.

The draft clauses satisfy the main objections stated by my predecessor in office to the Bill as originally submitted. I may point out that there are essential differences between the Bill and our recently enacted Statute, the Copyright in Works of Art Act, No. 46 of 1905, the consideration of which, however, may be postponed for the present.

VICTOR SAMPSON.

16045

No. 217.

NATAL.

THE SECRETARY OF STATE to THE GOVERNOR.

[Answered by No. 218.]

(Miscellaneous.)

SIR,

Downing Street, 29th May, 1907.

I HAVE the honour to acknowledge the receipt of your despatch, No. 49, of the 8th of April, 1907,\* respecting the draft clauses which it is proposed to insert in the Literary and Artistic Copyright Bills for applying them to British Possessions, and to request you to lay before your Ministers the enclosed copy of a minute of the Privy Council of the Dominion of Canada embodying the observations of the Minister within whose province the matter of copyright lies in the Dominion. I trust that this will afford your Government the information desired.

I have, &c.,  
ELGIN.

Enclosure in No. 217.

PRIVY COUNCIL, Canada.

(6861/04.)

EXTRACT from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 6th February, 1904.

The Committee of the Privy Council have had under consideration certain Colonial Office despatches, dated 18th September, and 4th December, 1900, respectively, on the subject of proposed amendments to the laws of copyright, also a cable despatch, dated 26th February, 1902, urging a reply to the above expressing the views of the Dominion Government on the proposed bills to be introduced into the Imperial Parliament.

The Minister of Agriculture, to whom the matter was referred, submits that while Canada appreciates the advantage of uniformity in the law of copyright throughout the British possession, and is willing to join the Imperial authorities and the other Colonial authorities in bringing the same about, he is respectfully of the opinion that in any bills framed for that purpose recognition should be made of the right which she has, under Section 91 of The British North America Act, to legislate on the subject, so far as the Dominion is concerned; and inasmuch as the principle of the present Bills ignores that right, and it is thereby proposed that hereafter Canada shall have only a modified and restricted power where she now enjoys a full and general one the principle of the Bills would require to be materially changed before they would be acceptable to Canada.

As to the merits of the several provisions of the Bills, the clauses which materially affect Canada are numbers 33, 34, 35 and 36 of the Copyright Bill of 1900.

Clause 33 reads:—

"This Act shall be proclaimed in every British Possession by the Governor as soon as may be after he receives notice thereof, and shall come

\* No. 215.

into operation in such Possession on the day mentioned in the said Proclamation."

This should be changed so as to read that the Act may be proclaimed in Canada by the Governor in Council, and shall come into operation on the day mentioned in the Proclamation.

Clause 34 reads:—

"(1) Where it appears to Her Majesty in Council, that having regard to the position, size or other circumstances of any British Possession, foreign reprints of books first published in the United Kingdom and entitled to copyright therein ought to be permitted to be imported into that possession, and that effectual and reasonable provision has been made by the law of that possession for all the following objects, namely:—

"(a) For preventing the importation into that possession of foreign reprints except according to this Act, and any Order in Council made in pursuance thereof:

"(b) For imposing a reasonable percentage as compensation to the author on all foreign reprints imported into that possession under this Act; also

"(c) For providing that such importation shall take place only through and subject to the supervision of some Government Department, whose duty it shall be to stamp any reprint so imported with notice of the percentage having been paid and to transmit the sums so paid to the owner of the copyright;

"(d) For any other objects for which in the opinion of Her Majesty in Council provision ought for the purpose of this Act to be made;

Her Majesty may, by Order in Council, direct that from and after the day of the date of the Order, or such later day, as may be specified in the Order, any person may, notwithstanding anything in any Act or law, import into such possession foreign reprints of any book first published in the United Kingdom whether published before or after the passing of this Act.

"2. All Orders in Council and Ordinances made in pursuance of the Colonial Copyright Act, 1847, shall remain in force in the same manner as if this Act has not passed."

This clause provides for an arrangement largely the same as that of the Foreign Reprints Act, 1847, which was in force in Canada until 1895, when it proved so unsatisfactory that it was terminated. It is not deemed desirable to restore this arrangement.

Clause 35 reads:—

"In the case of a legislature of any British Possession if the following circumstances occur, that is to say:—

"If a book has been first lawfully published in any other part of Her Majesty's Dominions, and it is proved to the satisfaction of an officer appointed by the Government of such possession to receive such proofs that the owner of the copyright has lawfully granted either a license to import for sale in such British possession or a license to reproduce therein by any process an edition or editions of any such book designed for sale only in such British possession;

"It shall be lawful for the legislature of such possession by Act or Ordinance to provide for the prohibition of the importation, except with the written consent of the licensee, into such possession of any copies of such book printed elsewhere, except under such license as aforesaid, except that two copies may be specially imported for the *bona fide* use of each of the public free libraries, of the university and college libraries and law libraries of any duly organized law institution or society for the use of its members.

"Where a license has been granted under this section for any British possession any copy of the book produced subject to such license shall, if found in any other part of Her Majesty's dominions, be deemed a pirated copy, and be treated accordingly."



This clause is substantially the same as the Act of the Canadian Parliament to amend the Copyright Act, 63-64 Victoria, Chapter 25, which has been found to work satisfactorily. It is to be observed that this Act was passed in 1900, and is now in force.

Clause 36 reads:—

"The legislature of any British possession may by law or ordinance, duly passed according to the constitution of such possession, modify or add to any provisions of this Act relating to Copyright, performing right or lecturing right, in so far as relates to a book first published in such possession, or to a dramatic or musical work first performed in such possession, or to a lecture first delivered in such possession; but any such modifications or additions shall be of force only in respect of such book, dramatic or musical work or lecture, within such possession, and shall not affect the application of this Act to such book, dramatic or musical work or lecture in any place not within the limits of the possession."

This clause would be particularly objectionable, inasmuch as it would tend to restrict Canada's right of legislation to the cases therein mentioned, while at present under The British North America Act as before stated her right is full and general.

The Committee advise that the Governor-General be moved to transmit an answer in the sense of this Minute to the Right Honourable the Secretary of State for the Colonies.

All which is respectfully submitted for approval.

JOHN J. MCGEE,  
Clerk of the Privy Council.

35457

No. 218.

NATAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 5th October, 1907.)

[Answered by No. 221.]

(No. 156.)

Government House, Pietermaritzburg,  
Natal, 9th September, 1907.

MY LORD,

WITH reference to your Lordship's Miscellaneous despatch of the 29th May, 1907,\* and to previous correspondence respecting the draft clauses proposed to be inserted in the Literary and Artistic Copyright Bills for applying them to British Possessions, I have the honour to enclose a copy of a minute, dated the 6th instant, by the Prime Minister in which exception is taken to the proviso to Section (2) of Draft Clause A as over-riding Clause VIII. of the Royal Instructions, dated the 26th July, 1893.

I also enclose a copy of the Attorney-General's minute of the 9th February to which reference is made by the Prime Minister.

I have, &c.,  
M. NATHAN.

Enclosure in No. 218.

MINUTE, PRIME MINISTER to His Excellency the GOVERNOR, 6th September, 1907.

Ministers concur in the views expressed by the Attorney-General in his minute of 9th February last that Section 2 of the clauses which it is proposed to insert in these enactments curtails the right of this Parliament to legislate within the terms of the Colony's Charter and over-rides the Royal Instructions under which the Governor is to be guided in reserving or allowing Bills passed by the Natal Legislature.

\* No. 217.

Ministers are not prepared to offer their views on the draft clauses forwarded with the Secretary of State's despatch of the 11th January last unless the proviso in Clause 2 is withdrawn.

F. R. MOOR,  
Prime Minister.

6th September, 1907.

MINUTE, ATTORNEY-GENERAL to MINISTER OF JUSTICE, 9th February, 1907.

I cannot advise Government to in any way consent to a curtailment of the rights of our Parliament to legislate within the terms of the Colony's Charter.

The Royal Instructions lay down the rules by which the Governor is to be guided in reserving or allowing Bills passed by Parliament. Draft Clause 2 seeks to over-ride the Royal Instructions.

The clauses affecting the freedom to legislate, as well as those which may amount to legislation by the Imperial Parliament in Colonies enjoying Responsible Government on the subject of copyright, require to be fully discussed from a constitutional point of view.

Before this Government expresses any opinion on the subject the objections raised by certain Responsible Government Colonies in 1900 and their present attitude to the proposed clauses should be fully disclosed.

The proposal appears to me to involve a very serious question.

G. A. DE ROQUEFEUIL LABISTOUR,  
Attorney-General.

9th February, 1907.

35457

No. 219.

NATAL.

COLONIAL OFFICE to BOARD OF TRADE.

[Answered by No. 220.]

SIR,

Downing Street, 14th October, 1907.  
WITH reference to your letter of the 29th of December, 1906,\* and to the letters from this Department of the 11th and 31st of January, 1907,† respecting the proposed legislation with regard to copyright, I am directed by the Earl of Elgin to transmit to you, to be laid before the Board of Trade, a copy of a despatch‡ from the Governor of Natal forwarding a minute from his Prime Minister with regard to the proviso in Clause A (2) of the draft clauses proposed to be inserted in Literary and Artistic Copyright Bills for applying them to British Possessions.

I am to enclose, for the Board's information, a copy of the Royal Instructions referred to in this despatch.

I am, &c.,  
H. W. JUST.

45453

No. 220.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 31st December, 1907.)

[Answered by No. 224.]

Board of Trade (Railway Department), 7, Whitehall Gardens,  
London, S.W., 30th December, 1907.

SIR,

WITH reference to your letter of the 14th October last (No. 35457/1907),§ and to previous correspondence regarding the proposed legislation on copyright, I am directed by the Board of Trade to state that they have given further consideration to the question of meeting the objections taken to earlier proposals by the self-governing Colonies.

\* No. 1 in Section XIX. of Miscellaneous No. 195.  
† No. 218.

‡ 48079 and 3178: not printed.  
§ No. 219.



It appears to the Board that a possible solution of the difficulties hitherto experienced in framing a scheme satisfactory alike to British authors and publishers and to the Colonies may be found in a Bill which, while consolidating and amending the law on copyright in the United Kingdom and the Crown Colonies, should contain a clause suspending its operation until the self-governing Colonies had legislated substantially on the same lines.

The Board have made some enquiries, and have reason to believe that such a proposal might be acceptable to authors in this country; but it has been represented to them that, before any steps are taken, it would be well, if possible, to obtain some assurance that the self-governing Colonies would be likely to pass the necessary legislation within a reasonable time.

It is assumed that if Canada were willing to fall in with the proposal no serious difficulty need be apprehended in the case of other Colonies; and the Board would suggest, for Lord Elgin's consideration, that, should he see no objection to such a course, it might be possible to ascertain unofficially whether the Canadian Government would regard the scheme with favour, and would be ready to legislate should the suggested Bill be passed by the Imperial Parliament.

The proposed Bill is that generally described as Lord Monkswell's Bill of 1900, which it would be the intention of His Majesty's Government to pass in a form as nearly as possible similar to the draft already forwarded to the Colonies, with the exception that clauses would be inserted to make the Bill inoperative until the self-governing Colonies had passed legislation based on the same principles.

I have, &c.,  
WALTER J. HOWELL.

17812

No. 221.

NATAL.

THE SECRETARY OF STATE TO THE GOVERNOR.

(No. 132.)

SIR, Downing Street, 31st December, 1907.  
WITH reference to your despatch, No. 156, of the 9th September last,\* I have the honour to transmit to you, to be laid before your Ministers, copies of despatches† from the Governors of the Cape Colony and Newfoundland, together with a copy of a telegram‡ from the Governor of New Zealand on the subject of the clauses proposed to be inserted in Literary and Artistic Copyright Bills for applying them to British Possessions.

I have not yet received any communications on the subject from the Government of Canada or from the Government of the Commonwealth of Australia.

I have, &c.,  
ELGIN.

17812

No. 222.

COLONIAL OFFICE to BOARD OF TRADE.

[See No. 225.]

SIR, Downing Street, 31st December, 1907.  
IN continuation of the letter from this Department of the 14th October last,§ I am directed by the Earl of Elgin to transmit to you, to be laid before the Board of Trade, copies of despatches† which have been received from the Governors of the Cape Colony and Newfoundland, respectively, and of a telegram‡ from the Governor of New Zealand on the subject of the clauses which it is proposed to insert in Literary and Artistic Copyright Bills for applying them to British Possessions.

\* No. 218.

† Nos. 216 and 214.

‡ No. 213.

§ No. 219.

No reply has yet been received from the Governor-General of Canada or from the Governor-General of the Commonwealth of Australia to Lord Elgin's despatch of the 11th January last\* (a copy of which was forwarded to you on the same date), and I am to state that, if the Board desire, a reminder will be addressed to these two Governments.

In the meantime, Lord Elgin would be glad to be furnished with any observations the Board may have to make with regard to the views expressed by the Natal Government, contained in the despatch which accompanied the letter from this Department of the 14th October last.†

I am, &c.,  
H. W. JUST.

2829

No. 223.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 25th January, 1908.)

[Copy to Board of Trade, 1 February, 1908. L.F.]

(No. 328.)

MY LORD, Governor-General's Office, Melbourne, 24th December, 1907.

WITH reference to your Lordship's Miscellaneous despatch of the 11th January last,\* asking to be furnished with an expression of the views of my Ministers on certain clauses which it is proposed to insert in Literary and Artistic Copyright Bills for applying them to British Possessions, I have the honour, at the instance of my Prime Minister, to transmit herewith, for your Lordship's information, a copy of a memorandum which has been prepared by the Attorney-General of the Commonwealth, and which embodies the views of the Commonwealth Government on the matter.

I have, &c.,  
NORTHCOTE,  
Governor-General.

Enclosure in No. 223.

(450/07. T. and C. 07/2497.)

MEMORANDUM on certain Draft Clauses proposed to be inserted in the Imperial Bills relating to Literary and Artistic Copyright.

A despatch from the Secretary of State for the Colonies, forwarding certain draft clauses (marked A, B, C, and D) which are proposed to be inserted in a Literary Copyright Bill and an Artistic Copyright Bill in the United Kingdom, has been forwarded to me for consideration.

In 1900, a Literary Copyright Bill and an Artistic Copyright Bill were submitted to the British Colonies and were, in the main, approved.

Certain objections were raised by the Governments of some of the Colonies having Responsible Government to the clauses relating to the application of the Bills to the Colonies, and the proposed clauses have been drafted in substitution for those objected to.

Draft Clause A.

Draft Clause A will apply to Australia and other British Possessions whether the Acts are adopted or not. Its main intention appears to be to secure the adoption of the Acts in British Possessions having Responsible Government. But, as drafted, it would probably have a restrictive effect on the legislative power of the Commonwealth.

The Commonwealth Parliament has, at present, by virtue of the Constitution, power to legislate as to copyright in Australia whether the works, the subject of the copyright, are produced in Australia or outside Australia.

\* No. 2 in Section XIX. of Miscellaneous No. 195.

† No. 219.



The Clause, as framed, may possibly be read as restricting the powers of the legislature of a British Possession having Responsible Government to the adoption of the Acts, with or without modification, and to the passing of legislation with respect to copyright in works produced in the Possession.

If the Commonwealth were to adopt the Acts under the power contained in the clause as at present drafted, there is reason to fear that it would part with a considerable portion of its powers to legislate with respect to copyright in works produced outside Australia. Also, it would seem to be doubtful whether, notwithstanding the provision for modification, the Acts could be repealed by local law after being adopted.

In my opinion, the draft clause is unsatisfactory.

*Draft Clause B.*

Draft Clause B would not apply to the Commonwealth, and no criticism of that clause is necessary.

*Draft Clause C.*

Draft Clause C is, in my opinion, a proper subject for a local law. I do not think it desirable for a law made by the Parliament of the United Kingdom to prohibit importation into Australia, nor do I think it desirable for Orders in Council to be made in the United Kingdom which would affect the importation of goods into Australia.

*Draft Clause D.*

The idea in this clause is unusual. The clause purports to confer certain powers of legislation on the Colonial legislatures, apparently to be exercised from time to time on proof of certain matters; but, as the Commonwealth has, under its present powers, ample power to legislate in the direction indicated, the clause would be of no advantage so far as we are concerned.

LITTLETON E. GROOM,  
Attorney-General.

3rd December, 1907.

45453

No. 224.

COLONIAL OFFICE to BOARD OF TRADE.

[Answered by No. 225.]

SIR,

Downing Street, 29th January, 1908.

I AM directed by the Earl of Elgin to acknowledge the receipt of your letter of the 30th ultimo,\* respecting the proposed legislation on copyright.

With regard to the suggestion contained in the 4th paragraph of your letter, that the Dominion Government should be approached unofficially by this Department with a view to arriving at a satisfactory solution of the matter, I am to state that Lord Elgin fears that no useful purpose would be served by the adoption of such a course, but that if the Board of Trade wish, he will communicate with the Dominion Government officially on the lines indicated in your letter, although he can hold out no strong hope of a favourable reply.

In the meantime I am to state that his Lordship would be glad to receive a reply to the letter from this Department of the 31st ultimo,† which crossed your letter under acknowledgment.

I am, &c.,  
H. W. JUST.

9679

No. 225.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 18 March, 1908.)

[Answered by No. 227.]

SIR,

7, Whitehall Gardens, London, S.W., 18 March, 1908.

I AM directed by the Board of Trade to refer to your letter (No. 45453/07)

\* No. 220.

† No. 222.

of the 29th January last,\* in which you state that Lord Elgin fears that no useful purpose would be served by communicating unofficially with the Canadian Government on the proposal for general copyright legislation outlined in the letter from this Department of the 30th December.†

The alternative course, namely, to put the proposal before them officially, appears to the Board to be open to objection on the ground that it might be deemed to amount to an admission that the Dominions have an unrestricted right to legislate with regard to the copyright within their jurisdiction of works published elsewhere.

The Board are, therefore, of opinion that it would be better, for the present, to postpone any attempt to deal comprehensively with copyright, and to leave the sections of the Acts of 1842 and 1886 that apply to the Colonies untouched.

As, however, there are certain specific points on which an amendment of the law has long been needed, and as it seems impossible at the present date to obtain the assent of all the Dominions to any Imperial Bill affecting copyright within their jurisdiction, the Board would suggest, for Lord Elgin's consideration, that an endeavour might be made by means of a subsidiary Colonial Conference to induce the Dominions to undertake concurrent legislation. The chief amendments which are needed relate to the extension of the term of protection, and of the scope of copyright in general, and it appears to the Board that there should be no difficulty in obtaining the assent of the Colonies to the principles involved, without raising the general question of their constitutional rights in the matter.

I am to request that you will be good enough to state whether Lord Elgin concurs in this proposal; and, if so, whether he will cause the necessary steps to be taken to summon such a Conference.

In the present circumstances, it seems unnecessary to comment on the observations so far received from the Colonies with regard to the Colonial clauses of the draft Bill of 1906, and forwarded in your letters of the 14th October (No. 35457/1907) and 31st December last (No. 17812/1907).‡

I am to add that a further letter will be addressed to you shortly with regard to the position of the Dominions in relation to the forthcoming International Conference at Berlin.

I have, &c.,  
G. R. ASKWITH.

9781

No. 226.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

[Answered by Nos. 230, 231, 232, and 234.]

(Australia. No. 95.)

(Cape. No. 49.)

(New Zealand. No. 45.)

(Orange River Colony. No. 33.)

(Canada. No. 149.)

(Transvaal. No. 71.)

(Newfoundland. No. 43.)

(Natal. No. 38.)

MY LORD,  
SIR,

Downing Street, 20 March, 1908.

I HAVE the honour to transmit to Your Excellency, to be laid before your Ministers, copy of a note from the German Ambassador at this Court inviting His Majesty's Government to send representatives to an International Copyright Conference at Berlin on the 14th of October next. I also transmit copies of printed papers containing the "Documents Préliminaires" for the Conference, and of a note drawn up by the Board of Trade commenting on the suggested amendments to the Berne Convention.

I should be glad to receive the observations of your Ministers upon the suggested amendments to the existing Convention.

2. His Majesty's Government consider that the instructions given to the British delegates to the Conference should follow the same lines as those given to

\* No. 224.

† No. 220.

‡ Nos. 219 and 222.



the delegates who attended the Paris Conference of 1896 (see pp. 1-4 of the enclosed Parliamentary Paper [C. 8441]), and they do not propose that any amendments involving an alteration of British legislation shall be accepted by the British delegates.

3. I presume that this procedure will be acceptable to your Ministers.

I have, &c.,  
ELGIN.

Enclosure 1 in No. 226.

YOUR EXCELLENCY,

German Embassy, February 22, 1908.

At the International Conference which was held at Paris in 1896 for the revision of the Berne Agreement of September 9th, 1886, respecting the formation of an International Union for the protection of works of literature and art, it was unanimously agreed that the next Conference should be held at Berlin within six to ten years from that date.

Now that the preparations for the Conference which were elaborated in conjunction with the Bureau at Berne have been terminated, there is nothing to prevent the meeting of the Conference. The printed matter relating to this subject should already have been communicated to the Governments of the States party to the Union by the Berne Bureau.

With the consent of His Majesty the Emperor, the German Government have decided to convoke the Conference for October 14th next at 11 a.m. in the Reichstag Buildings at Berlin. The Imperial Government have the honour to invite the British Government to appoint delegates, provided with the necessary full powers, to officially represent them at the Conference.

In accordance with the procedure adopted at the Paris Conference, the German Government will, on the assumption that the other Powers of the Union agree to such a course, invite a large number of those States which have not yet become members of the Union to be represented semi-officially at the Conference.

The German Government trust that they will succeed, with the assistance and support of the other States of the Union, in effectively promoting the aims of the Conference and in drawing up a uniform arrangement in harmony with the modern principles of author's right.

I should be grateful if Your Excellency would inform me, at the earliest possible moment, whether the British Government propose to send delegates to the Conference and, if so, what would be the number and names of such delegates.

I have, &c., -  
P. METTERNICH.

Enclosure 2 in No. 226.

BERLIN COPYRIGHT CONFERENCE, 1908.

NOTE on the chief suggested amendments to the Berne Convention.

At present the International Copyright Union is based on three documents, the Berne Convention of 1886, the Additional Act of Paris, and the Interpretative Declaration, the two latter having been adopted at the Paris Conference of 1896. Great Britain is a signatory of the original Convention and of the Additional Act, but has not accepted the Interpretative Declaration.

One of the main objects of the proposed Berlin Conference, as indicated by Number V. of the "Voeux" adopted at Paris in 1896, is to draw up a single revised text of the Convention.

Number III. of the "Preliminary Documents" issued by the Berne Copyright Bureau in connection with the forthcoming Conference gives this text as proposed by the German Government. It contains the original Convention amended by the incorporation of the Additional Act of Paris and the Interpretative Declaration, with certain further amendments.

The chief points in which an alteration is proposed in the provisions to which Great Britain is at present a signatory are as follows:—

In the enumeration of "Literary and Artistic Works" (Article 4 of the existing Convention) it is proposed to insert "*œuvres d'art appliqué à l'industrie*."

The works which it is intended to cover by this expression are not at present protected by English *Copyright* law, being dealt with under the law relating to Designs.

Works of architecture, which are not protected by English law, are also to be included. At present such works are admitted to the benefits of the Union in the countries where they are already protected as such (Final Protocol, Article 1 A. as amended by Article 2 of the Additional Act of Paris). (It is proposed to provide that the construction of a work of architecture shall not constitute publication (Article 3).)

According to the existing Convention (Article 2) the duration of protection in other countries of the Union cannot exceed that enjoyed in the country of origin of the work. This restriction disappears in the new Text which provides (Article 2) that the enjoyment and exercise of the rights granted to natives in countries of the Union other than the country of origin shall be independent of the existence of protection either in the country to which the author belongs or in the country of origin. Subject to the enjoyment of the minimum rights stipulated by the Convention, the extent and duration of copyright is to be governed exclusively by the legislation of the country in which protection is claimed.

This proposal conflicts with Section 2 (3) of the International Copyright Act, 1886.

The last paragraph of the proposed Article 2 provides that the enjoyment and exercise of the totality of rights under the Convention shall not (except in the case of certain newspaper articles) be subject to the accomplishment of any formality or extrinsic condition. This expresses in more precise language the intention of the similar provision in Article 2 of the existing Convention, following the lines of Article 1 of the Interpretative Declaration.

Paragraph 2 of this Article involves a definition of "publication" which is not that recognised in English law, *e.g.*, the public representation of a dramatic piece is held to be publication by the English Courts.

Paragraph 3 provides that for their works published for the first time in any country of the Union, authors belonging to any other country (not necessarily of the Union) shall enjoy rights in the former country at least as extensive as those of native authors.

This appears to be in accordance with English law.

At present express reservation of performing right on copies of music is necessary both under the Convention and in English law, in order to constitute unauthorised performance an infringement. It is now proposed to abolish this restriction (Article 4 (a)).

Article 4 (b), giving the author the exclusive right to turn a novel into a drama and *vice versa*, is also (probably) contrary to English law.

This Article provides that authors shall have an unrestricted translating right for the full term of copyright.

The original Convention gave a 10 years' translating right, while the Interpretative Declaration provided that if an author published a translation into any language during that period, he thereby gained the exclusive right of translating into that language for the full term of copyright.

Under Section 5 (2) of the International Copyright Act, 1886, the full translating right in England can only be obtained by the publication of a translation in the English language within "ten years or any other term prescribed by the Order" (in Council). (The Order in Council of 28th November, 1887, prescribes no other term.)

Article 3 of the Final Protocol to the original Convention is as follows:—

"It is understood that the manufacture and sale of instruments for the mechanical reproduction of musical airs which are copyright shall not be considered as constituting an infringement of musical copyright."

(NOTE.—This does not legalize public performance by means of such instruments.)

It has been doubted whether this provision applies to such instruments as

Article 1  
(of the  
proposed  
revised  
text).

Article 2.

Article 3.

Article 4.

Article 5.

Article 7.



pianolas, gramophones, &c., or rather to the perforated sheets, discs, &c., manufactured for use with them.

In England it has been decided that the manufacture of perforated sheets of music for "Aeolians" is not an infringement under English law (*Boosey v. Whight*, 1899).

It is now proposed in Article 7 to provide that the author shall have the sole right in the first instance (a) to make such reproductions, (b) to authorise public performance by means of such reproductions.

9679

No. 227.

COLONIAL OFFICE to BOARD OF TRADE.

[Answered by No. 228.]

SIR,

Downing Street, 24 March, 1908.

I AM directed by the Earl of Elgin to acknowledge the receipt of your letter of the 18th of March,\* in which it is proposed that a subsidiary Conference should be called for the discussion of the question of copyright.

2. Lord Elgin fears that at any such Conference it would be difficult to avoid raising the constitutional questions involved, and he would, therefore, before expressing any final opinion on the proposal, be glad to receive a short memorandum showing the exact proposals which the Board of Trade would suggest should be laid on behalf of His Majesty's Government before such a Conference.

I am, &c.,  
H. W. JUST.

12999

No. 228.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 13 April, 1908.)

[Answered by No. 229.]

SIR,

7, Whitehall Gardens, London, S.W., 11 April, 1908.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 24th ultimo (No. 9679),† on the subject of the proposed subsidiary Conference for the discussion of copyright, and, in reply, to transmit herewith a memorandum showing the proposals which the Board would suggest might be laid on behalf of His Majesty's Government before such a Conference.

I have, &c.,  
T. W. P. BLOMEFIELD.

Enclosure in No. 228.

COPYRIGHT LAW.

POINTS ON WHICH IT IS DESIRED THAT THE DOMINIONS SHOULD LEGISLATE.

*Literary Copyright.*

Under the existing law the term of copyright is the life of the author and 7 years, or 42 years, whichever is the longer.

It is desired to extend the term to 30 years (or possibly 50 years) after the end of the year of the author's death. The same provision would apply to the performing right in a dramatic or musical work, and to lecturing right.

It is desired to extend the scope of copyright to include the right to make abridgments and translations, to convert novels into dramas, and *vice versa*, to make adaptations, arrangements, &c., and (possibly) mechanical records of a musical work.

\* No. 225.

† No. 227.

The existing law on some of these points is doubtful, and on others is contrary to the proposed provision.

A number of minor amendments are desired in the law relating to lecturing rights, copyright in abridgments, anonymous works, works produced by joint authors or a plurality of authors, posthumous works and collective works such as encyclopædias and periodicals.

*Artistic Copyright.*

The provisions relating to artistic copyright are contained in ten Statutes and differ materially according as they relate to (1) Engravings and Prints; (2) Sculpture; or (3) Paintings and Photographs. The statutory term of protection is, for instance, 28 years in the first case, 14 years and 14 more if the author survives in the second, and life and 7 years in the third.

It is desired to substitute a uniform set of provisions corresponding to those relating to Literary Copyright.

Under the Fine Arts Copyright Act, 1862, if a picture is sold by the painter the copyright lapses unless it is either expressly retained by him or expressly granted to the vendee.

It is desired to remedy this anomaly by vesting the copyright in the author, unless it is expressly assigned in writing.

It was decided in 1903 in the case of *Graves v. Corrie* that the copyright conferred by the *Fine Arts Copyright Act*, 1862, does not extend to the Colonies.

It is proposed to suggest that the Dominions might conveniently remove this anomaly by legislation on their own part.

12999

No. 229.

COLONIAL OFFICE to BOARD OF TRADE.

[Answered by No. 233.]

SIR,

Downing Street, 7 May, 1908.

I AM directed by the Earl of Crewe to acknowledge the receipt of your letter of the 11th of April,\* on the subject of Copyright.

2. Lord Crewe is willing, if the Board of Trade wishes it, to communicate the memorandum of proposed alterations in the Law of Copyright which is enclosed in your letter, to the Governments of the several Dominions, and to invite them to choose representatives for a conference to discuss the proposals; but, in his opinion, it will be impossible at any such conference to avoid raising the constitutional question, inasmuch as the "existing law" of literary copyright which it is proposed in the memorandum to amend includes the very Acts the application of which to the Colonies is questioned. It is possible, indeed, that the question might be avoided if all the members of the conference were unanimous in desiring to do so, but inasmuch as some of the Colonies feel that from the constitutional point of view they have a very strong case, and there is little or no prospect of such unanimity, Lord Crewe fears that the constitutional question will inevitably be raised, and a discussion will be initiated such as the Board of Trade desire to avoid. He would, therefore, be glad to learn whether the Board still desire that a conference should take place.

I am, &c.,  
FRANCIS J. S. HOPWOOD.

18628

No. 230.

NATAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 23 May, 1908.)

(No. 68.)

MY LORD,

King's House, Durban, Natal, 30 April, 1908.

WITH reference to Lord Elgin's despatch, No. 38, dated the 20th March,

\* No. 228.



1908,\* on the subject of the International Copyright Conference to be held at Berlin on the 14th October next, I have the honour to report that the procedure therein suggested will be acceptable to the Government of Natal.

I have, &c.,  
M. NATHAN.

18613

No. 231.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 23 May, 1908.)

(No. 89.)

MY LORD,

Government House, Cape Town, 5 May, 1908.

I HAVE the honour to transmit to your Lordship, with reference to your predecessor's despatch, No. 49, of 20th March last,\* a copy of a Minute from Ministers on the subject of an International Copyright Conference at Berlin.

I have, &c.,  
WALTER HELY-HUTCHINSON.

Enclosure in No. 231.

MINISTERS to GOVERNOR.

(Minute, No. 1/244.)

Prime Minister's Office, Cape Town, 4 May, 1908.

Ministers have the honour to acknowledge receipt of His Excellency the Governor's Minute, No. 293, of the 13th ultimo, covering a despatch from the Right Honourable the Secretary of State for the Colonies, on the subject of an International Copyright Conference at Berlin on the 14th of October next, and to state in reply that the procedure proposed by His Majesty's Government in connection therewith is acceptable to the Government of this Colony.

N. F. DE WAAL.

19463

No. 232.

TRANSVAAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 30 May, 1908.)

[Copy to Board of Trade, 4 June, 1908. L.F.]

(No. 140.)

MY LORD,

Governor's Office, Johannesburg, 11 May, 1908.

WITH reference to your predecessor's despatch, No. 71, of 20th March,\* I have the honour to enclose, for your information, a copy of a Minute from Ministers, on the subject of an International Copyright Conference to be held at Berlin on the 14th of October next.

I have, &c.,  
SELBORNE,  
Governor.

Enclosure in No. 232.

(Minute, No. 287.)

Prime Minister's Office, Pretoria, 6 May, 1908.

Ministers have the honour to acknowledge the receipt of His Excellency the Governor's Minute, No. 67/2, of the 10th ultimo, forwarding copy of despatch,

\* No. 226.

Transvaal, No. 71, dated the 20th March, from the Right Honourable the Secretary of State for the Colonies, on the subject of an International Copyright Conference to be held at Berlin on the 14th October next.

2. Ministers have the honour to state that the procedure outlined in paragraph 2 of the despatch from the Secretary of State will be acceptable to them.

3. Ministers have no observations to make upon the suggested amendments of the existing Convention.

LOUIS BOTHA

20172

No. 233.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 3 June, 1908.)

SIR,

7, Whitehall Gardens, London, S.W., 2 June, 1908.

I AM directed by the Board of Trade to acknowledge the receipt of your letter, 12999/1908, of the 7th ultimo,\* on the subject of the proposed subsidiary Colonial Conference on copyright.

In reply, I am to state that the Board, after careful consideration, are still of opinion that, in view of the urgent need for an understanding with a view to legislation on the various questions involved, it is desirable that such a Conference should take place.

The Board would, therefore, be glad if the Secretary of State would take the steps proposed in your letter to bring to the notice of the Dominion Governments the alterations proposed in the Law of Copyright, with a view to their subsequent discussion at a Conference.

I have, &c.,  
H. LLEWELLYN SMITH.

21343

No. 234.

ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 13 June, 1908.)

[Copy to Board of Trade, 17 June, 1908. L.F.]

(No. 70.)

Governor's Office, Bloemfontein,

MY LORD,

Orange River Colony, 25 May, 1908.

I HAVE the honour to acknowledge the receipt of your predecessor's despatch, No. 33, of the 20th March last,† enclosing copy of a note from the German Ambassador inviting His Majesty's Government to send representatives to the International Copyright Conference to be held at Berlin on the 14th October next, and also copies of the "Documents Préliminaires" and of a note drawn up by the Board of Trade commenting on the suggested amendments to the Berne Convention.

2. The question as to the position to be taken up by the British delegates to the Berlin Conference is receiving the attention of my Ministers and a further communication on this subject will be addressed to your Lordship as soon as possible.

I have, &c.,  
HAMILTON GOOLD-ADAMS,  
Governor.

\* No. 229.

† No. 226.



## XIX.

## Importation of Live Cattle from Canada.

16467

No. 235.

COLONIAL OFFICE to BOARD OF AGRICULTURE AND FISHERIES.

[Answered by No. 236.]

SIR,

Downing Street, 8 June, 1907.

WITH reference to the question of Sir F. Cawley in the House of Commons on the 8th ultimo regarding the prohibition of the importation of live cattle from Canada into this country, I am directed by the Earl of Elgin to request you to refer the Board of Agriculture and Fisheries to pages 415-416 of [Cd. 3523] which contain the remarks made at the Colonial Conference by the Prime Minister of Canada urging upon His Majesty's Government that their attitude on this subject should be reconsidered.

Lord Elgin will be glad to receive a full expression of the views of the Board on the matter for communication to the Dominion Government.

I am, &c.,  
C. P. LUCAS.

Annexure to No. 235.

House of Commons, 13 May, 1908.

SIR FREDERICK CAWLEY asked the Honourable Member for South Somerset, as representing the President of the Board of Agriculture, whether his attention has been called to the speech of the Right Honourable Sir Wilfrid Laurier, at the Colonial Conference, in which he is reported to have said that Canada resented the prohibition of the importation of Canadian live cattle as an injustice; and whether the Minister for Agriculture proposes to introduce legislation to restore to the Board the discretionary powers exercised by them prior to the Act of 1896, so that Canadian live cattle may be admitted under proper inspection and regulations.

SIR EDWARD STRACHEY, in reply, said, "My noble friend has read the speech to which my honourable friend refers, and he will, of course, give most respectful consideration to the representations made by Sir Wilfrid Laurier on behalf of the Canadian Government. The Act of 1896 is, as my honourable friend probably knows, applicable to all cattle brought from beyond the seas, and has no special reference to the Dominion of Canada."

24250

No. 236.

BOARD OF AGRICULTURE AND FISHERIES to COLONIAL OFFICE.

(Received 9 July, 1907.)

[Answered 3 April, 1908 (10532): not printed.]

Board of Agriculture and Fisheries, 4, Whitehall Place,

SIR,

London, S.W., 8th July, 1907.

I AM directed by the President of the Board of Agriculture and Fisheries to advert to Mr. Lucas's letter of the 8th ultimo, No. 16467/1907,\* referring the Board to the remarks made at the recent Colonial Conference by the Prime Minister of Canada as to the law regarding the importation of live cattle into Great Britain, and asking for a full expression of the views of the Board on the matter for communication to the Dominion Government, and in reply I am to ask you to be so good as to submit the following observations to the Secretary of State:—

1. Experience has shown that the existing statutory requirement that all cattle imported into this country shall be slaughtered in wharves provided for the

\* No. 235.

purpose at the port of landing is no obstacle to the development and maintenance of a large and valuable trade. In the case of Argentina, the number of cattle imported into Great Britain steadily rose from 4,200 in 1891 to 85,000 in 1899, when the trade was interrupted by the discovery of foot-and-mouth disease in that country. The value of the imports in question was £68,000 in 1891 and £1,392,000 in 1899. During the whole of that period the requirement of slaughter was in force. The case of the United States shows similar results. The number of cattle imported thence into Great Britain in 1879 was 76,000, with a value of £1,782,000. In 1906 the number imported was 399,000 with a value of £6,937,000. Slaughter at the port of landing was required for the first time in 1879 in respect of cattle brought from that country, and has been enforced ever since. The Board are glad to observe that similar results are indicated in the case of Canada, the imports from which during the past four years have been as follows:—

	No. of Cattle Imported.	Declared Value.
		£
1903 ... ..	190,812	3,315,762
1904 ... ..	146,598	2,547,451
1905 ... ..	148,714	2,491,144
1906 ... ..	160,688	2,765,437

In the case of Canada, the highest figure recorded prior to 1892, when slaughter at the port of landing was first required, was reached in 1890. The imports in that year were 120,469 with a declared value of £1,892,298.

2. The existing law does not cast any stigma or discredit upon Canadian cattle, for it holds good not only in the case of the United States and other foreign countries, but also in that of every British Colony, including both Australia and New Zealand, whence live cattle have in the past been imported into Great Britain. It is, in fact, a sanitary law of universal application of great importance to stock-owners at home as a valuable safeguard against the introduction of disease, but not at all inconsistent with the transaction of a large and growing trade, as has been shown above. Moreover, foreign and Colonial buyers of farm stock for export from Great Britain rely upon the freedom of this country from imported diseases which is maintained by the Diseases of Animals Acts, and an extract from "The Times" of the 2nd instant is sent herewith as a recent illustration of their attitude in the matter.

3. The experience of Argentina in 1900 and more recently of the United States in 1902 has shown how suddenly and unexpectedly foot-and-mouth disease may make its appearance in a country, quite irrespective of the maintenance of an efficient veterinary organisation. In the former case diseased animals were actually imported into this country, and it was only by dint of good fortune and the most strenuous exertions that the infection was kept within the limits of the foreign animals wharves. A similar result might well have happened in 1902 in the case of the United States, notwithstanding the ability and the energy of the Department of Agriculture in that country.

4. The enormous losses which British agriculturists have suffered during the last thirty years, mainly by reason of the increased pressure of Colonial and foreign competition, make it more than ever necessary that every possible precaution should be taken against the introduction of disease, consistent with the reasonable requirements of Colonial producers and the interests of consumers at home. The consequences of the recurrence in Great Britain of epidemics of disease, such as have been experienced in the past, would now be disastrous, and consumers as well as producers would be affected throughout the country. It is, therefore, in the general interest that no risk should be taken which can be avoided by the maintenance of a law which provides a considerable measure of security against the introduction of disease, and which, at the same time, does so without any serious interference with trade, and without rendering it necessary for any action of an invidious character to be taken in regard to the cattle imported from a particular Colony or country.

The Dominion Government will probably have gathered from recent public utterances of members of His Majesty's Government both in Parliament and elsewhere that there is no prospect of their being able to propose any reversal of the policy of their



predecessors in this matter. In this connection I am to refer to the debate which took place in the House of Lords on the 5th April and the 21st May, 1906; to the discussion in the House of Commons on the 6th April in that year on the motion for the Second Reading of the Diseases of Animals Act (1896) Amendment Bill; and also to the answer given in the House of Commons by Sir Henry Campbell-Bannerman on the 28th May last to a question put by Mr. Mond on the subject of Sir Wilfrid Laurier's remarks at the Colonial Conference.

Earl Carrington, therefore, suggests that the Dominion Government might be informed that His Majesty's Government regret that after the fullest consideration, and for the reasons above indicated, they are unable to propose to Parliament any amendment of the existing law on the subject.

I am, &c.,  
A. W. ANSTRUTHER,  
Assistant Secretary.

Enclosure in No. 236.

EXTRACT from "TIMES" of 2 July, 1907.

The magnificent display of pedigree livestock at Lincoln last week testified in no uncertain degree to the vital importance of stock-breeding to the farming industry in this country. In quality as well as in extent the show was admitted by the numerous visitors who were present from foreign countries and the Colonies to stand out above anything they have ever seen outside the United Kingdom. Nor were their assurances meant merely as agreeable compliments, for their very presence—most of them were in quest of animals of one or other of the numerous breeds—was practical proof of the sincerity of their utterances. The important point to lay to heart in connexion with this great question is the necessity of firmly rejecting any alteration in the conditions under which the existing state of prosperity and success has been attained. It is significant of the far-reaching importance of the subject that foreign and colonial buyers are even more emphatic in their advocacy of a policy of protection against invading diseases than are the home stockowners. One after another of the representatives from abroad at the Lincoln Show vigorously asserted that it was only by maintaining absolute freedom from devastating diseases that this country would continue to attract their custom. Many of them suffer just as Canada does from the operation of the existing laws concerning the importation of live animals, but they recognize that they derive tangible compensation in being able to come to the United Kingdom for pure bred stock with the knowledge that they incur no risk of introducing disease by so doing. At the International Conference of Sheep Breeders on the Monday an idea could be gathered of the dread which foreign and colonial buyers entertain of introducing disease with purchased animals. Several speakers referred in uncomplimentary terms to the continued existence of sheep scab in this country, and, in reply to the suggestion that the quarantine regulations imposed by Australia and other countries were needlessly irksome, emphatically asserted that after the trouble and expense that had been incurred in eradicating the disease in their respective countries they could not recommend any concession until the United Kingdom had completely suppressed the scourge. Of their action in this matter we cannot fairly complain, as it is exactly parallel to our own policy respecting foreign disease. Our costly experiences with foot-and-mouth disease, pleuro-pneumonia, rinderpest, and other maladies would be valueless, if we were not to be as careful to avoid the possibility of their reintroduction as Australia is concerning sheep scab.

Annexure to No. 236.

House of Commons, 28 May, 1907.

Mr. MOND asked the Prime Minister whether his attention had been directed to the statement made by Sir Wilfrid Laurier, at the Colonial Conference, as to the exclusion of Canadian live cattle from this country; and whether, in order to promote good relations in the Empire, he would take any steps to have this prohibition removed.

Sir HENRY CAMPBELL-BANNERMAN, in reply, said, "I would refer my honourable friend to the answer\* given on the 13th of this month by my honourable friend the member for South Somerset to a similar question. I cannot add anything to that statement."

\* See No. 235.

24250

No. 237.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(No. 279.)

MY LORD,

Downing Street, 25 July, 1907.

I HAVE the honour to transmit to Your Excellency, for the information of your Ministers, copy of a letter\* from the Board of Agriculture and Fisheries, with reference to the observations made at the recent Colonial Conference by Sir Wilfrid Laurier as to the prohibition of the importation of live cattle from Canada into this country.

I have, &c.,  
ELGIN.

XX.

Radiotelegraphic Convention of 1906.

24658

No. 238.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

(Australia.)	}	(Miscellaneous.)
(Canada.)		
(Newfoundland.)		
(New Zealand.)		
(Cape.)		
(Natal.)		
(Transvaal.)		

MY LORD,

Downing Street, 31 July, 1907.

SIR,

I HAVE the honour to request you to inform your Ministers that the Select Committee of the House of Commons appointed to consider the Radiotelegraphic Convention has now reported in favour of the ratification of the Convention,† and His Majesty's Government have decided that they will ratify it.

2. I shall be glad to learn, in due course, whether your Government desires to adhere to the Convention, and in this connection I have to draw your attention to Article V. of the final Protocol, which provides that each of the Colonies may separately adhere to, and may separately withdraw from, the Convention.

3. The advantages likely to accrue to the United Kingdom from the ratification of the Convention appear to His Majesty's Government to be fairly summed up in paragraph 54 of the Report of the Select Committee,‡ copies of which were forwarded to you in my "Library" despatch of the 19th instant. Your Ministers will no doubt recognise that the arguments of the Committee are in the main equally applicable to the Colonies; and I trust that your Government will agree that the Convention has been framed with careful regard to the interests of His Majesty's Dominions beyond the seas.

4. [To all except Transvaal.] The draft Convention, which was submitted to the Berlin Conference, was communicated to you in my predecessor's despatch of 12th January, 1905,§ but your Ministers will perceive that that draft was considerably modified, largely on the initiative of the British delegates at the Conference, and in a manner to safeguard the interests of the Empire.

5. The participation of the Colonies which adhere to the Convention in future Conferences is provided for by Article 12 of the Convention and Article I. of the final Protocol, and it will be seen that the arrangement will doubtless secure similar

\* No. 236. † H.C. (368), November, 1906. ‡ H.C. (246), July, 1907. § 43193/04: not printed.



representation to that provided under the Postal Union, which has worked satisfactorily, as was admitted during the discussion of this question at the Colonial Conference.\*

6. Copies of the Convention were sent to you in my "Library" despatch of 15th January last, [to all except Transvaal: and the Proceedings of the Berlin Conference were communicated to you in my "Library" despatch of the 10th April].

I have, &c.,  
ELGIN.

24658

No. 239.

ORANGE RIVER COLONY.

THE SECRETARY OF STATE to THE GOVERNOR.

[Answered by No. 242.]

(Miscellaneous.)

SIR,

Downing Street, 31 July, 1907.

I HAVE the honour to inform you that His Majesty's Government have decided to ratify the Radiotelegraphic Convention,† copies of which were sent to you in my Library despatch of the 15th January last.

2. I shall be glad if you will in due course bring before your Ministers the question of the Colony adhering to this Convention; and in this connexion, their attention should be drawn to Article V. of the Final Protocol.

3. The advantages likely to accrue to the United Kingdom from the ratification of the Convention are summed up in paragraph 54 of the report of the Select Committee of the House of Commons,‡ copies of which were forwarded to you in my Library despatch of 19th instant, and it will no doubt be recognised that the arguments of the Committee are generally applicable to the Orange River Colony.

4. This question was discussed at the recent Colonial Conference; and a report of the discussion will be found on pages 601 to 610 of the Minutes of the Proceedings (Command Paper 3523).

I have, &c.,  
ELGIN.

35442

No. 240.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 5 October, 1907.)

(No. 273.)

MY LORD,

Government House, Cape Town, 14 September, 1907.

I COMMUNICATED to Ministers your Lordship's despatch, "Miscellaneous," of 31st July,§ enquiring whether the Government of the Cape Colony desires to adhere to the Radio-Telegraphic Convention, and drawing my attention to Article V. of the final Protocol, which provides that each of the Colonies may separately adhere to, and may separately withdraw from, the Convention.

2. I have now received from Ministers a minute, of which a copy is enclosed, from which I gather that, whilst they are in favour of adherence to the Convention, they think it advisable that the Government of Natal should notify adherence to the Convention in concert with the Government of the Cape Colony. I am in communication with the Governor of Natal on the subject, and shall inform your Lordship of the result in due course.

I have, &c.,  
WALTER HELY-HUTCHINSON.

\* See pages 601—610 of [Cd. 3523].  
† H.C. (216), July, 1907.

‡ H.C. (368), November, 1906.  
§ No. 238.

Enclosure in No. 240.

MINISTERS to GOVERNOR.

(Minute. No. 1/528.)

Prime Minister's Office, Cape Town, 13 September, 1907.

With reference to His Excellency the Governor's Minute, No. 601, of the 20th ultimo, transmitting copy of a despatch "Miscellaneous," from the Right Honourable the Secretary of State for the Colonies, in regard to the Radio-Telegraphic Convention, Ministers have the honour to state that they are of opinion that it would be distinctly advantageous if the Government of Natal would notify adherence to the Convention in concert with this Government.

This arrangement is desirable in view of the fact that the number of votes which may be exercised by one Government, including its Colonies, cannot exceed six, and that one of these votes only will probably be assigned for the South African maritime Colonies.

L. S. JAMESON.

35471

No. 241.

TRANSVAAL.

THE DEPUTY GOVERNOR to THE SECRETARY OF STATE.

(Received 5 October, 1907.)

[Answered by No. 250.]

(No. 370.)

MY LORD,

Governor's Office, Johannesburg, 16 September, 1907.

WITH reference to your "Miscellaneous" despatch of the 31st July,\* I have the honour to enclose, for your information, a copy of Ministers' Minute, dated 10th September, on the subject of the Radio-Telegraphic Convention.

I have, &c.,  
HENRY HILDYARD,  
Deputy-Governor.

Enclosure in No. 241.

(Minute. No. 466.)

Prime Minister's Office, Pretoria, 10 September, 1907.

With reference to His Excellency the Governor's Minute, No. 86/7/07, of the 23rd ultimo, Ministers have the honour to state, for the information of the Right Honourable the Secretary of State for the Colonies, that the Transvaal Government desires to adhere to the Berlin International Radio-Telegraphic Convention of the 3rd November, 1906.

Ministers would be glad to receive copies of the notifications which may be issued from time to time by the International Telegraphic Bureau in connection with this matter.

J. C. SMUTS.

37904

No. 242.

ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 26 October, 1907.)

(No. 77.)

MY LORD,

Governor's Office, Bloemfontein, Orange River Colony,

7 October, 1907.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch

\* No. 238.



"Miscellaneous," of the 31st July,\* on the subject of the adhesion of this Colony to the Radio-Telegraphic Convention.

2. As requested in the second paragraph of your despatch, I will in due course bring the question to the notice of my Ministers for their consideration.

I have, &c.,

HAMILTON GOOLD-ADAMS,  
Governor.

38790

No. 243.

NATAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 2 November, 1907.)

[Answered by No. 252.]

(No. 181.)

Government House, Pietermaritzburg, Natal,

10 October, 1907.

MY LORD,

In reply to your Lordship's "Miscellaneous" despatch of the 31st July, 1907,† I have the honour to state that the Government of Natal is prepared to adhere to the Radio-Telegraphic Convention.

I would add with reference to paragraph 2 of Sir Walter Hely-Hutchinson's despatch to your Lordship, No. 273, dated the 14th September,‡ that Ministers in this Colony have accepted the suggestion of Ministers at the Cape that the Government of Natal should notify adherence to the Convention in concert with the Government of the Cape Colony.

I have, &c.,

M. NATHAN.

38779

No. 244.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 2 November, 1907.)

(No. 306.)

MY LORD,

Government House, Cape Town, 14 October, 1907.

In continuation of my despatch, No. 273, of 14th September,‡ on the subject of the Radio-Telegraphic Convention, I forward a copy of a despatch from the Governor of Natal, from which it appears that his Ministers accept the suggestion of my Ministers that the Government of Natal should notify adherence to the Convention in concert with the Government of the Cape Colony.

2. I am informing my Ministers accordingly.

I have, &c.,

WALTER HELY-HUTCHINSON.

Enclosure in No. 244.

(Natal. No. 268.)

SIR,

Government House, Pietermaritzburg, Natal.

10th October, 1907.

WITH reference to Your Excellency's despatch, No. 338, dated the 14th September, 1907, on the subject of the Radio-Telegraphic Convention, I have the honour to state that Ministers in this Colony accept the suggestion of Ministers at the Cape that the Government of Natal should notify adherence to the Convention in concert with the Government of the Cape Colony.

2. In informing the Secretary of State of Natal's desire to adhere to the Convention, I am, therefore, stating that the suggestion contained in the second paragraph of Your Excellency's despatch to the Secretary of State, No. 273, of the 14th September, 1907, has been accepted by this Colony.

\* No. 239.

† No. 238.

‡ No. 240.

3. It is, of course, assumed that in any questions that may arise in reference to the Convention, the Cape Government will consult with that of Natal and *vice versa*.

I have, &c.,

M. NATHAN.

His Excellency

Sir Walter Hely-Hutchinson, G.C.M.G.,

&c., &c., &c.,

Governor of the Cape Colony.

41981

No. 245.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 30 November, 1907.)

[Answered by No. 252.]

(No. 336.)

MY LORD,

Middelburg, Cape Colony, 9 November, 1907.

In continuation of my despatch, No. 306, of 14th October, 1907,\* on the subject of the Radio-Telegraphic Convention, I forward a copy of a minute from Ministers, in which they ask that the German Government may be informed of the joint adherence to the Convention of the South African Maritime Colonies. Ministers also suggest that His Majesty's Government should inform the International Bureau, at the proper time, of their intention of applying, at the opening of the next Conference, for the allocation to the Cape of Good Hope and Natal of one of the six votes accorded to Great Britain and her Colonies.

2. Ministers also enquire whether, in the event of it not being considered desirable that South Africa should be directly represented at the next Conference, it may be practicable to secure to the Mother Country the support of the South African vote by asking that her delegates should, in addition to representing the Mother Country, also represent South Africa, subject, of course, to the concurrence of the Government of Natal.

I have, &c.,

WALTER HELY-HUTCHINSON.

Enclosure in No. 245.

MINISTERS to GOVERNOR.

(Minute. No. 1/625.)

Prime Minister's Office, Cape Town, 6 November, 1907.

Ministers have the honour to acknowledge with thanks receipt of His Excellency the Governor's Minute, No. 762, of the 14th ultimo, notifying the adherence of the Government of Natal to the Radio-Telegraphic Convention in concert with the Government of this Colony, and intimating that the Secretary of State for the Colonies is being advised accordingly.

Ministers would now request that His Excellency may be pleased to move the Secretary of State to inform the Imperial German Government in these terms as regards the Convention signed at Berlin on the 3rd November, 1906, and they would also suggest that at the proper opportunity the International Bureau should be informed by His Majesty's Government that it intends to apply at the opening of the next Conference for the allocation to the South African Maritime Colonies of the Cape of Good Hope and Natal of one of the six votes accorded to Great Britain and her Colonies, assuming, of course, that His Majesty's Government recognises the undoubted right of South Africa to one of the votes in question.

Under the regulations of the Universal Postal Union, the voting power of Great Britain is restricted to one other Colony beside herself, but the Radio-Telegraphic Convention does not definitely restrict the number of countries that a delegate may represent. Ministers, therefore, have the honour to enquire whether in the event of it not being considered desirable that South Africa should be directly represented

\* No. 244.



at the next Conference, it may be practicable to secure to the Mother Country the support of the South African vote by asking that her delegates should, in addition to representing the Mother Country, also represent South Africa, subject, of course, to the concurrence of the Government of Natal.

T. W. SMARTT.

42950

No. 246.

CANADA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 9 December, 1907.)

(No. 468.)

MY LORD, Government House, Ottawa, 27 November, 1907.  
WITH reference to your Lordship's despatch of the 31st July,\* marked "Miscellaneous," enquiring whether the Canadian Government desired to adhere to the Radio-telegraphic Convention of 1906, I have the honour to forward to Your Lordship, herewith, copy of an approved minute of the Privy Council, from which it will be observed that my responsible advisers are desirous of adhering to the Convention and that the legislation necessary to give effect to its provisions in Canada is now being considered.

I have, &c.,  
GREY.

Enclosure in No. 246.

EXTRACT from a Report of the Committee of the Privy Council, approved by the Governor-General on the 14th November, 1907.

The Committee of the Privy Council have had under consideration a despatch, dated 31st July, 1907, from the Secretary of State for the Colonies stating that the Select Committee of the House of Commons, appointed to consider the Radio-telegraphic Convention, had now reported in favour of the ratification of the Convention and that His Majesty's Government had decided they would ratify it, and requesting that His Majesty's Government be informed if it is the desire of the Canadian Government to adhere to this Convention.

The Minister of Marine and Fisheries, to whom the despatch was referred, states that, recognizing the advantages likely to accrue to the Dominion of Canada from the ratification of this Convention, it is the intention of this Government to adhere.

The Minister further states that it will be necessary to introduce the legislation required to give effect to this Convention, and that such legislation is now receiving careful consideration.

The Committee advise that His Excellency be moved to forward a copy hereof to the Right Honourable the Secretary of State for the Colonies.

All which is respectfully submitted for approval.

RODOLPHE BOUDREAU,  
Clerk of the Privy Council.

1121

No. 247.

NEW ZEALAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 11 January, 1908.)

[Copy to Foreign Office and General Post Office, 24 January, 1908. L.F.]

(No. 100.)

Government House, Wellington, New Zealand,

MY LORD, 3 December, 1907.  
I HAVE the honour to acknowledge your Lordship's despatch, "Miscellaneous," of the 31st July last,\* on the subject of the Radio-telegraphic Convention.

\* No. 238.

2. In reply I have to state that New Zealand proposes to adhere to the Convention, but not to the Additional Undertaking of the 3rd November, 1906.

3. This Government desires to reserve to itself the power under Clause 2 of the Final Protocol of designating certain coast stations which shall be exempt from the obligation imposed by Article 3 of the Convention.

I have, &c.,  
PLUNKET,  
Governor.

2444

No. 248.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 8.40 a.m., 22 January, 1908.)

TELEGRAM.

[Copy to Foreign Office and General Post Office, 24 January, 1908. L.F.]

Referring to your despatch "Miscellaneous," 29th November,\* Radio-telegraphic Convention, Prime Minister would be glad if necessary steps can be taken to signify adhesion Australian Federation to the Convention.—NORTHCOOTE.

3775

No. 249.

ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 1 February, 1908.)

(No. 134.)

Governor's Office, Bloemfontein,

MY LORD, Orange River Colony, 13 January, 1908.

WITH reference to my despatch, No. 77, of the 7th October last,† on the subject of the adhesion of this Colony to the Radiotelegraphic Convention, I have the honour to inform your Lordship that my Ministers, who have had this matter under consideration, are of opinion that this Colony should not join the Convention at the present time.

2. My Ministers observe that the Radiotelegraphic Convention has primarily to do with ship-to-shore and ship-to-ship communication and touches shore-to-shore and overland telegraphy only incidentally, and that—as the Select Committee itself reports (Section 17)—"there is at present small likelihood of wireless telegraphy competing commercially with ordinary telegraphy over land lines or superseding the use of cables."

3. It is moreover noted that it is free for any country or Colony to signify its adherence at any time to the Convention.

I have, &c.,  
HAMILTON GOOLD-ADAMS,  
Governor.

1577

No. 250.

TRANSVAAL.

THE SECRETARY OF STATE to THE GOVERNOR.

(No. 32.)

MY LORD, Downing Street, 5 February, 1908.

WITH reference to Sir H. Hildyard's despatch, No. 370, of the 16th September last,‡ I have the honour to inform you that the desire of your Ministers to receive copies of the notifications issued from time to time by the International Telegraph Bureau relating to wireless telegraphy was duly notified to the Postmaster-General and that a letter§ has now been received from the General Post Office stating that each Administration will, upon adhesion to the Radio-Telegraphic Convention, be

\* 24658 : not printed (reminder of No. 238). † No. 242. ‡ No. 241. § 1577 : not printed.



entitled, in the capacity of an Administration bearing its share of the expenses of the International Bureau, to receive copies of all the official publications.

I enclose, for the information of your Ministers, copies of the four notifications (with two Annexures)\* already issued. Copies of any further notifications which may be issued prior to the formal notification of adhesion will be forwarded to the Postmaster-General of the Transvaal by the General Post Office.

I have, &c.,  
ELGIN.

10487

No. 251.

NEWFOUNDLAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 24 March, 1908.)

[Copy to General Post Office, 6 April, 1908. L.F.]

(No. 38.)

MY LORD,

Government House, St. John's, 9th March, 1908.

I HAVE the honour to enclose, for your information, copy of a letter from my Prime Minister with reference to the Radiotelegraphic Convention, from which it appears that a reply to your Lordship's "Miscellaneous" despatch of 31st July† cannot be sent till this Government has received a communication from the Marconi Wireless Telegraph Company of Montreal.

I have, &c.,  
WM. MACGREGOR.

Enclosure in No. 251.

Colonial Secretary's Office, St. John's, Newfoundland,

March 5th, 1908.

SIR,

REFERRING to despatch, Miscellaneous, of date 31st July last, from the Right Honourable the Secretary of State for the Colonies, in relation to the Radiotelegraphic Convention, I am now in receipt of a report from the Department of Justice in reference to this matter, and I am communicating with the Marconi Wireless Telegraph Company of Montreal, and upon receipt of reply from that Company I shall again communicate with Your Excellency.

I have, &c.,  
R. BOND,  
Colonial Secretary.

His Excellency

Sir Wm. MacGregor, G.C.M.G., C.B.,  
&c., &c., &c.,  
Governor.

10191

No. 252.

THE SECRETARY OF STATE to THE GOVERNORS.

[Copy to General Post Office, 20 May, 1908. L.F.]

(Cape of Good Hope. No. 83.)

(Transvaal. No. 124.)

(Natal. No. 73.)

SIR,

MY LORD,

Downing Street, 16 May, 1908.

WITH reference to your despatch [Cape: No. 336, of the 9th of November last],‡ [Natal: No. 181, of the 10th October last],§ [Transvaal: No. 370, of the

\* Not reprinted.

† No. 238.

‡ No. 245.

§ No. 243.

16th of September last],\* I have the honour to request you to inform your Ministers that His Majesty's Government propose to ratify the Radiotelegraphic Convention before the 1st July next, which is the date fixed for the Convention to come into operation, and they will at the same time notify adhesion to the Convention on behalf of all the British Colonies, Possessions and Protectorates, with the exception of Newfoundland, which has not yet decided the question of its adhesion, and the Orange River Colony, which, as an inland colony, sees no reason for adhering at present.

2. This adhesion will, of course, not involve adhesion to the Additional Undertaking as to communication between ships.

3. His Majesty's Government will also notify that the British Colonies, Possessions and Protectorates which adhere to the Convention, reserve the right referred to in Article II. of the Final Protocol of exempting certain coast stations from the obligation of intercommunication.

4. I shall be glad to receive in due course copies of the Return made by your Government to the International Bureau under Article XXXVIII. of the Service Regulations, and also copies of subsequent modifications and additions thereto, and of any other notifications made to the Bureau.

5. As regards the question of voting at future Conferences, referred to in [Cape: your despatch† under acknowledgment], [Natal and Transvaal: the enclosed copy of a despatch‡ from the Governor of the Cape of Good Hope], I am disposed to think that a vote should be claimed in due course (in accordance with the procedure set forth in Article I. of the Final Protocol) on behalf of the adhering South African Colonies as a whole (in accordance with the precedent of the Postal Union) rather than on behalf of the two maritime Colonies only, although in actual practice the exercise of the vote would presumably be governed by the wishes of the maritime Colonies, which alone would be directly concerned in communication with ships.

6. With reference to paragraph 2 of [Cape: your despatch, No. 336†], [Natal and Transvaal: the enclosed despatch‡ from the Governor of the Cape], I have to observe that there appears to be nothing in the provisions of the Convention that would prevent the South African Governments being represented by the British delegation except that it is not improbable that in the circumstances, the Conference would desire to apply the principle of the International Postal Union, under which no single Delegation may exercise more than two votes in all. It would, however, perhaps seem desirable that each Colony or group of Colonies claiming a vote should be separately represented at the next Conference, as such a course would be likely to facilitate the allocation of the full number of votes to Great Britain and her Dominions. But as the next Conference will not take place till 1911, the question of direct or indirect representation need not be finally settled at present.

I have, &c.,  
CREWE.

10191

No. 253.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Copy to General Post Office, 20 May, 1908. L.F.]

(No. 153.)

Downing Street, 15 May, 1908.

[The despatch was in identical terms with the first four paragraphs of No. 252.]

\* No. 241.

† No. 245.



10191

No. 254.

## CANADA: ORANGE RIVER COLONY.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL AND GOVERNOR.

[Copy to General Post Office, 20 May, 1908. L.F.]

(Canada. No. 265.)

(Orange River Colony. No. 51.)

Downing Street, 16 May, 1908.

[The despatch to Canada was in identical terms with the first four paragraphs, and that to the Orange River Colony with the first three paragraphs, of No. 252.]

10191

No. 255.

## NEWFOUNDLAND: NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNORS.

[Copy to General Post Office, 20 May, 1908. L.F.]

(Newfoundland. No. 71.)

(New Zealand. No. 76.)

Downing Street, 19 May, 1908.

[The despatch to Newfoundland was in identical terms with the first three paragraphs, and that to New Zealand with the first four paragraphs, of No. 252.]

18768

No. 256.

## NEWFOUNDLAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 25 May, 1908.)

[Copy to General Post Office, 27 May, 1908. L.F.]

(No. 62.)

MY LORD, Government House, St. John's, Newfoundland, 15 May, 1908.

WITH further reference to your predecessor's despatch, "Miscellaneous," of date 31st July last,\* relating to the Radiotelegraphic Convention, I have the honour to transmit to your Lordship the enclosed copy of a letter received by me from my Prime Minister, stating that Ministers do not desire to adhere to the Convention at the present time.

I have, &c.,  
WM. MACGREGOR.

\* No. 238.

Enclosure in No. 256.

Colonial Secretary's Office, St. John's, Newfoundland,

13 May, 1908.

SIR,

WITH further reference to despatch "Miscellaneous," of date 31st July last, from the Right Honourable the Secretary of State for the Colonies, in relation to the Radiotelegraphic Convention, I have the honour to state that the Government have given this matter very careful consideration. Ministers recognize that the Convention has been framed with careful regard to the interests of His Majesty's Dominions beyond the seas, and that provision is made whereby each Colony may separately adhere to and may separately withdraw from the Convention. They do not desire, however, to adhere to the Convention at the present time, but will watch with interest the development of the principle embodied in the Convention under reference.

I have, &c.,  
R. BOND,  
Colonial Secretary.

His Excellency  
Sir Wm. MacGregor, G.C.M.G., C.B., &c., &c., &c.,  
Governor.

## XXI.

## Voting of Colonies at International Conferences.

33675

No. 257.

COUNT P. METTERNICH to SIR E. GREY.

(Translation.)

YOUR EXCELLENCY,

German Embassy, 28 August, 1906.

IN connection with the International Congress on Electrical Units, which it is proposed to hold in London in October next, I have the honour to transmit herewith three copies of the Protocol\* of a preliminary discussion on the subject held in Berlin in October last.

With regard to the forthcoming Congress, the Imperial Government are of opinion that, in addition to the points elaborated in their note of the 10th instant to the British Ambassador in Berlin, the question of the voting at the Conference ought to be examined and defined.

According to the proposal of the Board of Trade, which was attached to Sir Frank Lascelles's Note of May 10th last, every State is to have a vote, without regard to the number of its delegates. The British possessions beyond the seas are, however, to be on the same footing as other States. It appears to the Imperial Government, however, neither fair nor wise from the technical point of view that in mainly scientific questions countries like Natal, Newfoundland, and New Zealand should be on the same footing as big European Powers. At the last International Electrical Congress in which the German Empire participated officially, i.e., the Chicago Congress of 1893, British North America was, of course, represented in addition to the mother country. There were no special objections to this, in view of the fact that the Congress took place on American soil. But in the present instance the Imperial Government consider they are right in demanding that only one vote should be given to the British Empire, including all the British possessions. They would, nevertheless, consent to a vote being given both to India and to Australia, in addition to Canada.

In accordance with my instructions I request your Excellency to cause this matter to be examined by the competent authorities from the point of view set forth above, and to favour me with a communication as to the result.

I have, &c.,  
P. METTERNICH.

\* Not reprinted.



16303

No. 258.

## COLONIAL OFFICE to FOREIGN OFFICE.

[Copy to Home Office, 22 May, 1907. L.F.]

[Answered by No. 259.]

SIR,

Downing Street, 22 May, 1907.

I AM directed by the Earl of Elgin to acknowledge the receipt of your letter of the 7th instant,\* respecting the enquiry of the American Ambassador with regard to the representation of the British Colonies at the forthcoming Conference on Electrical Units and Standards.

2. I am to request you to inform Sir Edward Grey that the question of the voting power of the Colonies at International Conferences was discussed at the Colonial Conference, not as a general question, however, but in connection with the Wireless Telegraphy Convention. The Postmaster-General explained that under that Convention His Majesty's Government had secured the possibility of obtaining at future Conferences, if a sufficient number of Colonies adhered, probably the same number of votes as is accorded to the British Empire under the Postal Union Convention of Rome, namely, six; and he observed that the arrangements of the Postal Union had worked satisfactorily. The Premier of New Zealand concurred, and it was not suggested by any other Premier that it was necessary to press for more.

3. From the proceedings of the last Postal Union Congress and at the Wireless Telegraph Conference, it is clear that it would be very difficult to secure more votes for the British Empire than the number secured at the Postal Congress, and His Majesty's Government would probably run the risk of defeat if an endeavour were made to do so. On the other hand, the larger self-governing colonies are likely to wish to secure not less voting power in future conferences of any kind at which they are all represented.

4. The six votes referred to above in the case of the Postal Union are at present distributed to the United Kingdom, India, Canada, Australia, New Zealand, and South Africa, and Lord Elgin considers that the same distribution might be followed in other similar cases.

5. Lord Elgin observes that the Committee appointed to consider the steps to be taken to convoke the International Conference on Electrical Units and Standards recommended that each country or dependency represented should have one vote, and his Lordship contemplated the representation of the Crown Colonies by one delegate, who should also have a vote. The German Government, however, in the note of 28th August, 1906,† a translation of which accompanied your letter of the 11th September last, demurred to small Colonies such as Natal, Newfoundland, and New Zealand being placed on the same footing in this matter as European Powers, while consenting to separate votes being given to India, Australia, and Canada. Without prejudice to the general question of Colonial representation at International Conferences, Lord Elgin is disposed to be content with the German Government's offer as regards this particular Conference, as Natal, Newfoundland, and New Zealand have decided not to send delegates, Cape Colony has requested to be represented by the British delegate, and it is not now proposed to press for a separate vote for the representative of the Crown Colonies.

6. In these circumstances I am to suggest that the German Government and the United States Government should be informed that at the forthcoming Conference a vote will be claimed for Australia and Canada and for India, assuming that India would be represented at the Conference.

7. A copy of this letter has been communicated to the Board of Trade.

I am, &c.,  
C. P. LUCAS.

\* 16303: not printed.

† No. 257.

11741

No. 259.

## FOREIGN OFFICE to COLONIAL OFFICE.

(Received 3 April, 1908.)

[Answered by L.F. transmitting copy of No. 260.]

The Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary of State for the Colonies, and, by direction of the Secretary of State, transmits herewith copy of the following paper:—Count Metternich, March 24. (Electrical Units Conference.)

Foreign Office,  
2 April, 1908.

Reference to previous letter: Colonial Office, 22nd May, 1907.\*

Enclosure in No. 259.

(Translation.)

YOUR EXCELLENCY,

German Embassy, 24 March, 1907.

WITH reference to your note of June 17th last I have the honour to inform you that the Imperial Government agree to the proposal that at the International Electrical Units Conference to be held in October next, Australia, Canada, and India should each have a vote, without prejudice to the question of Colonial representation at international conferences.

I have, &c.,  
P. METTERNICH.

11741

No. 260.

CANADA. AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL.

[Copy to Foreign Office, 14 April, 1908. L.F.]

(Canada. No. 193.)

(Australia. No. 121)

MY LORD,

Downing Street, 9 April, 1908

WITH reference to my despatch, Miscellaneous, of the 17th of August, 1907,† I have the honour to request Your Excellency to inform your Ministers that the German Government have accepted the proposal of His Majesty's Government that the Government of the Dominion Commonwealth should have one vote at the International Electrical Units Conference to be held in October next. Votes have also been accorded to the Commonwealth of Australia and the Empire of India.

I have, &c.,  
ELGIN.

\* No. 258.

† 27452: not printed.



## XXII. Marriage Facilities.

12979

No. 261.

THE REGISTRAR-GENERAL to COLONIAL OFFICE.

(Received 13 April, 1907.)

General Register Office, Somerset House,  
London, W.C., 12 April, 1907.

SIR,

WITH reference to previous correspondence and to my interview with Mr. Cox and Mr. Just on the 20th ultimo, I now transmit the enclosed Memorandum relating to the existing facilities for marriage between British subjects dwelling in our self-governing Colonies or Possessions and British subjects dwelling in England, along with some suggestions for the improvement of these facilities, for the consideration of the Secretary of State for the Colonies as to whether or not the subject matter should be brought to the attention of the Premiers of the self-governing Colonies at the present moment.

On the suggestion of Mr. Cox and Mr. Just, I also send the accompanying draft of a proposed Bill, so far as relates to England, with the object of showing the manner in which I would propose that the improved facilities should be provided for. To this draft I have appended a copy of the notice and of the certificates used in England for giving effect to the civil preliminaries for marriage. These notices and certificates would no doubt require some modifications to adapt them for use under the provisions of the proposed Bill.

I need hardly point out that, in the event of legislation being finally determined upon, it will be necessary that the terms of this rough Draft Bill should be further considered and revised, and that the Bill itself should be made applicable, *mutatis mutandis*, to Scotland and Ireland.

This application to the United Kingdom can of course be readily adjusted, after consultation with my colleagues, the Registrars-General for Scotland and Ireland, whom I have not yet been able to confer with.

I trust Lord Elgin may regard the proposal to obtain better facilities for the solemnization of marriage between the subjects of the United Kingdom and her sister States as one deserving of serious attention, and that his Lordship will, on due consideration, be able to give it his cordial support.

I have, &amp;c.,

WM. C. DUNBAR,  
Registrar-General.

Enclosure in No. 261.

12 April, 1907.

MEMORANDUM *re* EXISTING FACILITIES FOR MARRIAGE IN THE UNITED KINGDOM, AND IN SELF-GOVERNING COLONIES AND POSSESSIONS, WITH SUGGESTIONS THEREON.

The Registrar-General for England considers it an opportune moment to bring forward a proposal for the provision of increased facilities for marriage where one of the parties to the intended marriage resides in the United Kingdom and the other in one of the British Colonies or Possessions. In support of this view, it will suffice to show that there is need for such facilities, and that the need can be met, if thought desirable, by a practicable legislative enactment.

The preliminary formalities for the contracting of marriage may be generally grouped into two modes of procedure: (1) by certificate or banns, and (2) by licence. The first method generally involves a longer period of notice and is comparatively inexpensive; the latter costs more in money and requires a shorter time for the completion of the formalities.

Thus in England a civil marriage by certificate costs 7s. and involves a residence by both parties seven days before notice can be given, and an interval of 21 complete days must intervene after the day of the notice before the marriage.

Civil marriage by licence costs £2 14s. 6d. and involves a residence of 15 days by one party before the notice, and one week day must intervene after the notice and before the marriage; in this case residence in England on the day the notice is given is all that is required of the other party.

The prime object of giving notice of marriage is to allow of any proper legal objection being taken before the marriage is solemnized, and it is clear that if this public notice is to be of real value it must be given in the place where the person concerned has usually resided.

This principle is so fully recognised in those countries where the State has most concerned itself with the question of marriage law (*e.g.*, France, Italy, Hungary) that a marriage contracted abroad by a subject of such country is not valid by the law of his own country, unless notice of the intended marriage is given in the last place of domicile in that country. Under the present system there is no provision by which notice of an intended marriage in any of the Colonies can be given in this country, nor by which certificate of notice of an intended marriage in this country can be given in any of the Colonies.

To facilitate the giving of notice for marriage by certificate or banns in the cases in question would be to follow on the lines laid down by the last Royal Commission on the Laws of Marriage (1868), which laid down as essentials to a sound marriage law, *inter alia*,—

"That as far as is consistent with securing correct information preliminary to the marriage contract and with ensuring due evidence of the marriage contracted, it is of the utmost importance that . . . every reasonable and proper facility be given for celebrating marriage," and "it is the duty of the State to discourage and place obstacles in the way of sudden and clandestine marriages."

It may, perhaps, be objected that the procedure differs in different Colonies—that in some there is no provision for purely civil marriages, while in others all marriages, *i.e.*, civil or ecclesiastical, are on the same footing as to the preliminary requirements. This difficulty is, however, more apparent than real. Where there is no statutory or legal provision for the giving of notice to, or issue of a certificate by, a civil functionary of a Colony, the certificate of due publication of banns should be accepted in the United Kingdom as the equivalent of a certificate of civil notice for marriage, as is already the case for a marriage between parties one of whom dwells in England and the other in Scotland. On the other hand, such Colonies would accept the certificate of due notice issued under the suggested Act as equivalent to a certificate of publication of banns.

Apart from marriage by licence, the conditions as to minimum residence in the United Kingdom and the self-governing Colonies are—

## I.

## ENGLAND AND WALES.

*Ecclesiastical*

*Banns*.—Publication on three Sundays. It is optional with the clergyman to require *previous* residence, but residence during the period of publication is required.

*Civil*

*Certificate*.—For each party seven days' residence previous to notice. Twenty-one days must intervene between notice and issue of certificate.

## SCOTLAND.

*Ecclesiastical*

*Banns*.—Banns ordinarily proclaimed on two separate Sabbaths. Minister has power to complete proclamation in one Sabbath, in which case certificate is not to be issued till 48 hours after proclamation.

*Civil*

*Notice*.—For each party 15 days' residence previous to notice, at least eight days to intervene between notice and marriage.



## IRELAND.

*Ecclesiastical.*

*Banns.*—(1) In churches of the Roman Catholic Church. Conditions entirely regulated by law of Roman Catholic Church.

(2) In churches of the Church of England. Regulated by 33 & 34 Vict. c. 110, sec. 33, and rules in force in Ireland as to banns in parish churches and chapels of United Church of England and Ireland at time of disestablishment. If parties reside in different parishes banns must be published in both. (Presumably the conditions as to residence and publication are similar to those in England.) Parties must be Protestant Episcopalians.

(3) In certified Presbyterian meeting-houses. Parties must be Presbyterians, and if of different congregations banns must be published in certified meeting-house of each party.

*Civil.*

*Certificate.*—For each party seven days' residence previous to notice. Twenty-one days must intervene between notice and issue of certificate.

## II.

## COMMONWEALTH OF AUSTRALIA.

*New South Wales.**Ecclesiastical.*

No residential qualification necessary when marriage is before a minister of religion.

*Civil.*

Marriage before a registrar must be by registrar of district in which intended wife ordinarily resides, and parties must declare conscientious objection to be married by a minister of religion. Apparently no notice necessary before the marriage.

*Victoria.**Ecclesiastical.*

No notice, no residential qualification, nor is it necessary to be married where parties reside.

*Civil.*

Written notice must be given by parties and posted at office of Government Statist or Registrar of Marriages for three days, and marriage must be celebrated in the office where notice is given. No residential qualification is required, nor is it necessary to be married where parties reside.

*Western Australia.**Ecclesiastical.*

(1) *Banns.*—To be proclaimed on three consecutive Sundays in a church in district where one of the parties resides.

(2) *Notice of Intention.*—To be affixed for three consecutive Sundays to outer door of church in district where one of the parties resides.

*Civil.*

*Certificate.*—Notice to be given to district registrar of district where parties have resided for not less than seven days preceding the giving of notice. (If one of the parties resides outside Western Australia, notice by other party is deemed sufficient.)

*Queensland.**Ecclesiastical.*

No residential qualification is necessary when marriage is before a minister of religion.

*Civil.*

Marriage before a registrar can take place only before the registrar of marriages

of the district in which intended wife ordinarily resides. No notice is required, but person proposing to officiate may postpone marriage for a week for inquiry.

*South Australia.**Ecclesiastical or Civil.*

Notice must be given by one party to registrar-general, deputy registrar of marriages, or district registrar of district in which parties dwell. If they reside in different districts notice must be given in each. Certificate issues after 14 clear days. No residential qualification necessary before notice.

*Tasmania.**Ecclesiastical or Civil.*

Notice must be given to registrar-general or registrar of district in which parties reside. If they reside in different districts notice must be given in each and certificate issued after seven clear days. No residential qualification necessary before notice.

## NEW ZEALAND.

*Ecclesiastical or Civil.*

Notice must be given in district within which one party shall have dwelt for not less than three days, or if in different districts by both parties. Apparently the marriage may follow immediately on the notice.

## DOMINION OF CANADA.

*Ontario.**Ecclesiastical.*

*Proclamation of Intention.*—To be made once openly on Sunday, in the church, &c., in which one of the parties usually worships, or within the district where one party has for 15 days immediately preceding had usual place of abode. If parties dwell in different districts proclamation must be made in both districts.

*Civil.*

*Certificate.*—Residence 15 days by one party before notice. Apparently the marriage may follow immediately on the notice.

*Quebec.**Ecclesiastical or Civil.*

*Banns.*—To be published in the church to which the parties belong on three Sundays or holidays. Domicile is acquired by six months' residence. If the last domicile be out of Lower Canada, the officer solemnizing the marriage must ascertain that there is no legal impediment.

## BRITISH COLUMBIA.

*Ecclesiastical.*

*Banns.*—To be proclaimed for three consecutive Sundays, or other days substituted for Sunday by the denomination for the celebration of divine worship.

*Civil.*

*Certificate.*—Notice to be given to Registrar of district in which parties propose to marry; 14 clear days must elapse before certificate is issued.

## MANITOBA.\*

*Ecclesiastical.*

*Banns.*—To be proclaimed once openly and on a Sunday in the church in which one of the parties habitually worships, or in some church with which the minister who performs the ceremony is connected, in parish, circuit, &c., where one of the parties has for at least 15 days immediately preceding had his or her usual place of abode.

\* In Manitoba there is also marriage by "dispensations" (from the head of the church in which one of the parties worships) or by "licence" (from a civil authority), with apparently no conditions as to notice or residence, and at a very small cost.



NORTH-WEST TERRITORIES (including new Provinces of ALBERTA and SASKATCHEWAN).  
*Ecclesiastical.*

*Banns.*—To be proclaimed thrice on two successive Sundays in some public religious assembly (apparently not necessarily in the parish where parties reside).

*Civil.*

*Certificate.*—One party to give notice to Marriage Commissioner where parties propose to marry. Fourteen clear days must elapse before certificate is issued. Apparently no residential qualification necessary either for ecclesiastical or civil marriage.

#### NEW BRUNSWICK.

*Ecclesiastical.*

*Banns.*—To be proclaimed in the parish where either of the parties resides. (No time stated, nor how many times banns must be published.)

#### NOVA SCOTIA.

*Ecclesiastical.*

*Banns.*—To be proclaimed in the church, &c., at the place in which one of the parties resides, at three several services on two or more Sundays, or at two several services on two Sundays.

#### PRINCE EDWARD ISLAND.

*Ecclesiastical.*

*Banns.*—To be published by the Marriage Officer on three successive Sundays.

#### NEWFOUNDLAND.

*Ecclesiastical or Civil.*

*Banns.*—To be proclaimed for three successive Sundays in some church, or (when there is no church) placarded in some conspicuous place for three weeks immediately preceding day for celebration of marriage.

#### CAPE OF GOOD HOPE.

*Ecclesiastical.*

*Banns.*—To be published on three Sundays in parish where both or one of the parties dwell. If parties dwell in different parishes or if they belong to different persuasion, publication to be made in each, but if one of the places where banns have been published be in another country the certificate of such publication may be accepted.

*Civil.*

*Notice.*—To be given in the district within which parties have dwelt for not less than 14 days. This notice to be posted and read at three courts not less than three clear days or more than 21 days from receipt of notice. After expiry of 21 days marriage may be contracted.

#### NATAL.

*Ecclesiastical.*

*Banns.*—To be published for three Sundays in the parish in which both or one of the parties dwells. If parties dwell in different parishes publication to be made in each.

#### TRANSVAAL.

*Ecclesiastical or Civil.*

*Banns.*—To be published on three successive Sundays or posted on door of office of magistrate in whose circuit each of the parties or both of them reside.

#### Enclosure 2.

#### DRAFT BILL AS TO MARRIAGE WITH COLONIALS.

Whereas it is expedient that marriages between British subjects, one of whom dwells in the United Kingdom and the other in a British Colony or Possession, should be facilitated:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. In the case of an intended marriage in England between a British subject dwelling in England and a British subject dwelling in a British Colony or Possession in which notice of marriage can be given or banns published and a certificate issued by an authorised officer stating that all legal requirements have been complied with in accordance with the laws and regulations of such Colony or Possession, it shall be lawful for such certificate to be accepted as authority for the marriage by the superintendent registrar, or the person whose duty it is to register the marriage, in respect of the party dwelling in such Colony or Possession, in the same manner as if it had been a certificate issued by the superintendent registrar of another district in England.

2. When the necessary arrangements have been made in a British Colony or Possession, by statute or otherwise, it shall be lawful, in the case of an intended marriage in a British Colony or Possession between a British subject dwelling in such Colony or Possession and a British subject dwelling in England, for the party dwelling in England to give notice of marriage in the like manner, and on payment of the like fees as if that party were about to be married in England, and the superintendent registrar of the district shall accept such notice and issue a certificate in like manner and on payment of the like fee as for a marriage certificate without licence; and such certificate shall be accepted in the Colony or Possession in which the marriage shall take place as authority for the marriage in respect of the party dwelling in England.

3. Where the marriage is not solemnized within three months next after the date on which the notice for it has been given to and entered by the person empowered to receive and enter such notice, the notice shall be void, and the intended marriage shall not be solemnized under that notice.

4. If a person knowingly and wilfully makes a false oath or signs a false notice under this Act for the purpose of procuring a marriage, such person shall suffer the penalties of perjury, and may be tried in any county or place in England in which the offender may be, and dealt with in the same manner in all respects as if the offence had been committed in that county or place.

5. A caveat against an intended marriage under this Act may be entered in like manner, and on payment of the like fees as in the case of an intended marriage of two persons dwelling in England.

6. If any person enters a caveat against an intended marriage on grounds which the superintendent registrar or, in the case of appeal, the registrar-general declares to be frivolous, that person shall be liable to pay as a debt to the applicant for the certificate such sum as the superintendent registrar or, in the case of an appeal, the registrar-general considers to be proper compensation for the damage caused to the applicant by the entering of the caveat.

7. His Majesty the King in Council may make regulations—

- (a) prescribing the forms to be used under this Act, and making such other provision as may seem necessary or expedient for carrying into effect the purpose of this Act; and
- (b) revoking, altering, or adding to any Order in Council made under this Act.

8. This Act shall not extend to the marriage of any of the Royal Family.

9. In this Act the expressions "Registrar-General" and "Superintendent Registrar" mean respectively the Registrar-General within the meaning of the Births and Deaths Registration Act, 1836, and a Superintendent Registrar within the meaning of the Marriages Act, 1836.

10. This Act may be cited as the "Marriage with Colonials (Facilities) Act, 1907."



# SUPERINTENDENT REGISTRAR'S CERTIFICATE FOR MARRIAGE WITHOUT LICENCE.

Pursuant to Statute 19 & 20 Vict., Chap. 119, Section IV.

I do hereby certify, That on the day of 18, notice was duly entered in the Marriage Notice Book of the said District of the hand of Superintendent Registrar of the District of in the Count of one of the Parties: (that is to say,)

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church or Building in which the Marriage is to be solemnized.	District and County in which the Parties respectively dwell.

Date of Entry of Notice  
Date of Certificate given

18  
18

The issue of this Certificate has not been forbidden by any Person authorised to forbid the issue thereof.

Witness my hand this

day of

18

Superintendent Registrar.

N.B.—This Certificate will be void unless the Marriage is solemnized within Three Calendar Months after the date of the Entry of Notice, namely, on or before the day of 18

[On back of Certificate.]

## INSTRUCTION TO THE SUPERINTENDENT REGISTRAR.

[If the Marriage of the Parties who are described in the within Certificate is intended to be solemnized under the provisions of the Act of 3 & 4 Vict., c. 72, the Superintendent Registrar must fill up and sign the following Memorandum, but if not, it must remain blank.]

## MEMORANDUM.

Be it remembered, that the within Certificate was issued by me pursuant to a Notice of Marriage duly given according to the provisions of the Act of 3 & 4 Vict., c. 72.

Witness my hand this

day of

18

Superintendent Registrar.

If this Marriage is to take place in a Registered Building for which an Authorised Person has been appointed, and if it be desired that a Registrar shall register the Marriage, the request on the back of this Form must be filled up without fail; but not otherwise.

Form No. 1.—Notice of Marriage without Licence.—(Pursuant to the Statutes 19 & 20 Vict., Cap. 119; and 61 & 62 Vict., Cap. 58.)  
[For Persons both of whom are of Full Age.]

To the Superintendent Registrar of the District of in the Count of I, the undersigned hereby give you Notice, That a Marriage is intended to be had without Licence, within Three Calendar Months from the date hereof between me and the other party herein named and described (that is to say),—

Name and Surname.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church or Building in which the Marriage is to be solemnized.	District and County in which the Parties respectively dwell.
1.	2.	3.	4.	5.	6.	7.	8.

### DIRECTIONS for filling up this DECLARATION.

(a) Insert here "I," "he," "she," or "we," as the case may be.

(b) When the usual place of residence of both parties has, for the preceding seven days, been within the District of the Superintendent Registrar to whom this Notice is to be given, the Names of both must be inserted here. But if only one of them has fulfilled the required term of residence within such District the Name of such party only must be inserted.

(c) Insert here "my," "his," "her," or "our," as the case may be.

(d) If the marriage is to be solemnized in a Church or Chapel of the Church of England, insert here "in the Parish of" or "in the Ecclesiastical District of" (as the case may be), and add the Name of the Parish or Ecclesiastical District in which one or both of the parties (as the case may be) has or have resided during the last seven days. But if the Marriage is not to be solemnized in a Church or Chapel of the Church of England, leave this space (d) blank.

(e) Insert here "Superintendent Registrar," "Deputy Superintendent Registrar," "Registrar of Births and Deaths," "Registrar of Marriages," "Deputy Registrar of Births and Deaths," or "Deputy Registrar of Marriages," as the case may be.

And I hereby solemnly declare, That I believe there is no impediment of kindred or alliance or other lawful hindrance to the said Marriage, and that (a) the above-named (b) ha for the space of seven days immediately preceding the giving of this Notice had (c) usual place of abode and residence (d) within the above-mentioned District of

And I further declare, That I am not a Minor under the age of Twenty-one years, and that the other party herein named and described is not a Minor under the age of Twenty-one years.

And I make the foregoing Declarations solemnly and deliberately, conscientiously believing the same to be true, pursuant to the provisions of an Act passed in the Session of Parliament holden in the Nineteenth and Twentieth years of Her Majesty Queen Victoria, Chapter One hundred and nineteen, intituled "An Act to amend the provisions of the Marriage and Registration Acts," well knowing that every person who shall knowingly or wilfully make and sign or subscribe any false Declaration, or who shall sign any false Notice, for the purpose of procuring any Marriage under the provisions of the said Act above mentioned, or any of the several Acts therein recited, shall suffer the penalties of perjury.

In witness whereof I have hereunto set and subscribed my hand this day of 190.

Signed and declared by the above-named

in the presence of

(Witness's)

Name

Description

Place of Abode

(e)

in and for the

District of

N.B.—Read the Memorandum on the other side.



## NOTICE.

## TO THE SUPERINTENDENT REGISTRAR OF THE DISTRICT OF

I, the undersigned, Do hereby give you Notice that it is my wish, as one of the parties to the proposed Marriage referred to in the Notice of Marriage on the other side hereof, that a Registrar of Marriages shall attend and register the said Marriage.

Dated,

19

## MEMORANDUM.

Persons desirous of marrying under the provisions of the Act 19 and 20 Vict. c. 119, in a Registered Building or in a Church or Chapel of the Church of England, are hereby reminded that by the 11th Section of that Statute it is provided that no Marriage shall be solemnized in any Registered Nonconformist Place of Worship without the consent of the Minister or of one of the Trustees, Owners, Deacons, or Managers thereof, nor in any Registered Building of the Church of Rome, nor in any Church or Chapel of the Church of England, without the consent of the Minister thereof. It therefore behoves every person, before giving Notice to the Superintendent Registrar, to ascertain that such consent will be granted.

If this Marriage is to take place in a Registered Building for which an Authorised Person has been appointed, and if it be desired that a Registrar shall register the Marriage, the request on the back of this Form must be filled up without fail; but not otherwise.

Form No. 2.—Notice of Marriage without Licence.—(Pursuant to the Statutes 19 & 20 Vict., Cap. 119; and 61 & 62 Vict., Cap. 58.)

To the Superintendent Registrar of the District of

I, the undersigned hereby give you Notice, That a Marriage is intended to be had without Licence, within Three Calendar Months from the date hereof between me and the other party herein named and described (that is to say),—

Name and Surname.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church or Building in which the Marriage is to be solemnized.	District and County in which the Parties respectively dwell.

## DIRECTIONS for filling up these DECLARATIONS.

- (a) Insert here "I," "he," "she," or "we," as the case may be.  
 (b) If both the parties have, during the last seven days, resided within the District of the Superintendent Registrar to whom this Notice is to be given, the Names of both must be inserted here. But if only one of the Parties has resided within such District during the last seven days, the Name of such Party only must be inserted.  
 (c) Insert here "my," "his," "her," or "our," as the case may be.  
 (d) If the Marriage is to be solemnized in a Church or Chapel of the Church of England, insert here "in the Parish of" (as the case may be), and add the Name of the Parish or Ecclesiastical District in which one or both of the parties (as the case may be) has or have resided during the last seven days. But if the marriage is not to be solemnized in a Church or Chapel of the Church of England, leave this space (d) blank.  
 (e) Directions for filling up this Declaration are given on the other side.  
 (f) Insert here "Superintendent Registrar," "Deputy Superintendent Registrar," "Registrar of Births and Deaths," "Registrar of Marriages," "Deputy Registrar of Births and Deaths," or "Deputy Registrar of Marriages," as the case may be.

And I hereby solemnly declare, That I believe there is no impediment of kindred or alliance or other lawful hindrance to the said Marriage, and that (a) the above-named (b) ha usual place of abode and residence (d) for the space of seven days immediately preceding the giving of this Notice had (c) within the above mentioned District of

And I further declare, (e)

And I make the foregoing Declarations solemnly and deliberately, conscientiously believing the same to be true, pursuant to the provisions of an Act passed in the Session of Parliament holden in the Nineteenth and Twentieth years of Her Majesty Queen Victoria, Chapter One hundred and nineteen, intituled "An Act to amend the provisions of the Marriage and Registration Acts," well knowing that every person who shall knowingly or wilfully make and sign or subscribe any false Declaration, or who shall sign any false Notice, for the purpose of procuring any Marriage under the provisions of the said Act above mentioned, or any of the several Acts therein recited, shall suffer the penalties of perjury.

In witness whereof I have hereunto set and subscribed my hand this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Signed and declared by the above-named \_\_\_\_\_ in the presence of \_\_\_\_\_

(Witnesses)  
 Name  
 Description

Place of Abode

(S) \_\_\_\_\_ in and for the \_\_\_\_\_ District of \_\_\_\_\_

[See over.]



# NOTICE.

To the Superintendent Registrar of the District of  
I, the undersigned, Do hereby give Notice that it is  
my wish, as one of the Parties to the proposed Marriage  
referred to in the accompanying Notice of Marriage,  
that a Registrar of Marriage shall be present and register  
the said Marriage.

Dated

## MEMORANDUM.

Persons desirous of marrying under the provisions  
of the Act 19 & 20 Vict., c. 119, in a Registered Build-  
ing, are hereby reminded that by the 11th Section of  
that Statute it is provided that no Marriage shall be  
solemnized in any Registered Nonconformist Place of  
Worship without the consent of the Minister, or of one  
of the Trustees, Owners, Deacons, or Managers thereof,  
nor in any Registered Building of the Church of  
Rome \* \* \* without the consent of the Minister  
thereof. It therefore behoves every person, before  
giving Notice to the Superintendent Registrar, to  
ascertain that such consent will be granted.

# DIRECTIONS for filling up the DECLARATION in the BLANK (e) as to MINORITY and CONSENT.

[If both the parties are Minors, and neither of them has been previously married,  
Consent as to both (if there be any person competent to give it) will be required, in  
which case the blank (e) should be filled up as follows] :—

And I further declare, That I and the said  
not being either of us a widower or widow, are both Minors under the age of 21 years; and  
that the Consent of  
whose Consent to our Marriage is required by law, has been duly given and obtained thereto.

[If both parties are Minors, but Consent is required only as to one of them, insert  
as above down to and including the words "21 years" and then add as follows] :—

and that the Consent of  
the Marriage of the said  
been duly given and obtained thereto; and that as to  
there is no person whose Consent to  
Marriage is by law required.

[If only one of the parties is a Minor, and if such party has not been previously  
married and there is a person competent to give Consent to his or her Marriage, fill  
up the blank (e) thus] :—

And I further declare, That  
a widow, is a Minor under the age of 21 years; and that the Consent of  
the said  
whose Consent to  
has been duly given and obtained thereto.  
Marriage is required by law,

[If there be no person competent to give Consent, insert after the words "21 years"  
as follows] :—

and that there is no person whose Consent to  
Marriage is by law required.

12979

No. 262.

## THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

(Australia.)  
(Canada.)  
(Newfoundland.)  
(Cape.)  
(Natal.)  
(Victoria.)  
(Miscellaneous.)

(New South Wales.)  
(South Australia.)  
(Western Australia.)  
(Queensland.)  
(Tasmania.)  
(New Zealand.)

MY LORD,  
SIR,

Downing Street, 20th June, 1907.

I HAVE the honour to transmit to you a copy of a letter\* from the Registrar-  
General covering a memorandum with regard to the existing facilities for marriage  
between British subjects dwelling in the Colonies and British subjects resident in  
the United Kingdom, and the draft of a Bill indicating the lines on which he would  
suggest that legislation should be proceeded with to provide for improved facilities.

2. This letter was laid before the recent Colonial Conference, but the subject  
was not discussed, owing to want of time and the number of other matters before  
the Conference.

3. [To all except Canada and Australia. I have to request you to lay the  
letter before your Ministers, and to invite their consideration of the questions raised  
by the Registrar-General.]

[To Canada only. I have to request you to lay the letter before your Ministers,  
and to invite them to be good enough to obtain the views of the Provincial Govern-  
ments on the questions raised by the Registrar-General.]

[To Australia only. I have to request you to inform your Ministers that  
I have referred the letter of the Registrar-General to the various State Governments  
for an expression of their views.]

I have, &c.,  
ELGIN.

33841

No. 263.

## WESTERN AUSTRALIA.

### THE GOVERNOR to THE SECRETARY OF STATE.

(Received 23rd September, 1907.)

[Copy to Registrar-General, 26th September, 1907. L.F.]

(No. 27.)

MY LORD,  
Government House, Perth, 26th August, 1907.  
I HAVE the honour to acknowledge the receipt of your "Miscellaneous" despatch  
of the 20th June last,† with reference to the existing facilities for marriage  
between British subjects resident in the Colonies and British subjects resident in  
the United Kingdom and, in reply, to transmit herewith a memorandum prepared  
by the Registrar-General of this State on the subject.

A copy of this despatch is not being forwarded to the Governor-General.

I have, &c.,  
FRED. G. D. BEDFORD,  
Governor.



Enclosure in No. 263.

The HONOURABLE THE PREMIER,

So far as I can see, every reasonable and proper facility already exists in this State for the convenient marriage of a person arriving from Great Britain with a person dwelling in Western Australia.

For instance:—

*By Banns.*—If the marriage is desired to be celebrated after publication of banns the party residing in this State can publish the banns in the district in which he, or she, resides, for both parties, one publication being here legally sufficient.

*Notice posted on Church door.*—Similar in procedure to above.

*Notice of Intention posted by District Registrar.*—If one of the parties resides outside the State then notice given to the District Registrar of the district in which he, or she, resides, by the party residing in the State is deemed to be notice on behalf of each of the parties.

Any one of the above three provisions of the Act having been duly complied with, and the requisite declaration made, by both parties before the Minister or District Registrar, who is to celebrate the marriage, to the effect that there is no impediment or lawful objection by reason of any kindred relationship or alliance, or any former marriage, or the want of consent of parents or guardians, or any other lawful cause, to the parties being married, the marriage can take place immediately on, or so soon after, the arrival of the party from abroad as they may deem most convenient.

Under the present local law, if the parties are married by banns or Church door notice, they have to be married by a duly registered Minister in the district in which the banns, or notice, were published.

If, however, they are married by District Registrar's certificate, they can either be married in his usual office by the District Registrar who issued the certificate, or should they prefer the ceremony to be performed by a Minister, then anywhere within the State.

The publication of banns, or the posting of either of the two Notices, allows, to a certain extent, enquiry to be made, if deemed necessary, and proper legal objection to be taken before the marriage is solemnised; whilst the declaration is an additional safeguard which renders either of the parties not giving correct information preliminary to the marriage contract liable to imprisonment with hard labour for seven years.

In the case of a person going home from here to be married, when it may be desirable, especially if the party be the lady and she be without friends in England, that the ceremony shall take place immediately on her arrival, provision might be made in the English Act to accept, if duly verified or countersigned by some responsible person here, and if also endorsed with a statement that no valid objection to the marriage has been duly lodged, or that it has not been "Forbidden," any one of the following certificates such as are required in this State:—

- (1) Certificate that banns have been duly posted.
- (2) Certificate that Church door notice has been duly posted.
- (3) Certificate of District Registrar that notice of intention has been duly posted.

I would call attention to the fact that marriage with a deceased wife's sister is lawful in this State, and no objection to it would consequently be raised in the case of either banns or notice, the certificate, however, of which would not, I presume, allow of a valid marriage being celebrated in England, where such a union is still illegal. Some provision would, therefore, have to be made for either disclosing, or ascertaining, this fact before the marriage could be celebrated in England, as otherwise it might subsequently be proved invalid and hold good neither in England nor here.

MALCOLM A. C. FRASER,  
Registrar-General.

20th August, 1907.

34711

No. 264.

TASMANIA.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 30th September, 1907.)

[Copy to Registrar-General, 3rd October, 1907. L.F.]

(No. 32.)

MY LORD, Government House, Hobart, 26th August, 1907.  
In reply to your Lordship's despatch, Miscellaneous, of the 20th June, 1907,\* desiring the consideration of my Ministers of questions raised by the Registrar-General with regard to facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom, I have the honour to transmit (with two enclosures†) a letter from the Attorney-General, on behalf of the Premier, dated the 17th instant.

I have, &c.,  
G. STRICKLAND,  
Governor.

Enclosure in No. 264.

(P.O. 195/3/07.)

YOUR EXCELLENCY, Premier's Office, Hobart, 17th August, 1907.  
REFERRING to the Secretary of State's despatch, dated the 20th June last, returned herewith, with regard to the existing facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom, I have the honour to inform you that I am advised by the Acting Registrar-General that every facility is afforded by "The Marriage Act, 1895," as will be seen from the accompanying extract from Act and Instructions.

I have, &c.,  
W. B. PROPSTING,  
For Premier.

His Excellency the Governor,  
Hobart.

TASMANIA.  
Ecclesiastical.

By banns or licence according to rites of the particular denomination.

Civil.

By certificate or licence. Seven clear days' notice must be given for marriage by certificate to Registrar of district or districts in which parties reside.

No notice is required for marriage by licence.

In neither case is a residential qualification necessary nor in the case of an ecclesiastical marriage is there any stipulation as to hour when marriage may be celebrated.

34786

No. 265.

TASMANIA.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 30th September, 1907.)

[Copy to Registrar-General, 3rd October, 1907. L.F.]

(Confidential.)

MY LORD, Government House, Hobart, 26th August, 1907.  
WITH reference to my despatch, No. 32, of this date,‡ and to the Draft Bill enclosed in your Lordship's despatch, Miscellaneous, of the 20th June,\* I beg

\* No. 262.

† One only printed

‡ No. 264.



leave to suggest that the proposed short title, viz., "Marriage with Colonials (Facilities) Act, 1907," be amended so as to omit the word "Colonials"; e.g., "Marriage with British subjects dwelling out of the United Kingdom (Facilities) Act, 1907."

2. Residents in Australasia are inclined to feel that the application to them of the designation "Colonials" conveys some reproach or intimation of inferiority; the term does not appear necessary in this particular Draft Bill, and it is not quite accurate.

I have, &c.,  
G. STRICKLAND,  
Governor.

37085

No. 266.

NEW ZEALAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 21st October, 1907.)

[Copy to Registrar-General, 24th October, 1907. L.F.]

(No. 70.)

MY LORD, Government House, Wellington, 4th September, 1907.

I HAVE the honour to acknowledge your Lordship's despatch, Miscellaneous, of the 20th June last,\* on the subject of proposed legislation to improve the existing facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom.

2. In the opinion of my Ministers it does not appear to be necessary, pending Imperial legislation, for the New Zealand Government to take any action with regard to the solemnization of marriage between the subjects of the United Kingdom and her sister States.

3. I enclose, for your Lordship's information, a memorandum upon this subject which has been prepared by the Registrar-General of Births, Deaths, and Marriages, together with a copy of the New Zealand Marriage Act of 1904.

I have, &c.,  
PLUNKET,  
Governor.

Enclosure in No. 266.

(1907/1569.)

HON. COLONIAL SECRETARY,

Registrar-General's Office,  
Wellington, 16th August, 1907.

IT does not appear that any action is absolutely necessary in regard to the New Zealand law so far as concerns persons arriving in the Colony from the United Kingdom to be married here.

As stated on page 4 of the report (with enclosures) by the Registrar-General of the United Kingdom, marriage in New Zealand may follow immediately consequent on the notice, and to give the notice, *one* party only must have dwelt in the district where the marriage is to be solemnised for not less than three days. If the parties *live in different districts* a like notice to the Registrar of each district is required.

Inasmuch as the case of a party arriving in New Zealand from the United Kingdom and desiring to marry instantly on arrival is one where the second party has no residence in any district—the practice has always been to allow an immediate certificate to issue on declaration made by the party having a residence in the district where the marriage is to be solemnised.

The only exception is in the case of the party arriving from abroad being a minor, and a declaration is made before the Registrar that there is no person resident in the Colony having authority by law to give consent to the marriage. In such case the Registrar is required by Section 27 of "The Marriage Act, 1904," to delay issuing his certificate until the expiration of 14 days after the receipt by him of the notice.

\* No. 262.

From the above it will be seen that under ordinary circumstances a Registrar's certificate authorising marriage can issue directly the party desiring to be married lands in the Colony, and the practice has always been to permit this course, whereas in England (see page 2 of report, first paragraph) residence by *both* parties for seven days before notice is invariably necessary to obtain a Registrar's certificate.

But with reference to persons leaving New Zealand to be married in the United Kingdom on arrival, the Colonial statute has no provision under which such persons can carry away with them a Registrar's certificate to authorise the marriage in England. And legislation would have to be framed for such purpose to meet what is desired. This, however, could scarcely be touched until after action has been taken in England as to the law there, and it is known here what has been done.

While it may possibly be deemed desirable to pass such legislation, and also include provision for accepting in New Zealand certificates issued in the United Kingdom, I may state that so far no trouble has arisen and no demand for legislation.

E. J. VON DADELSZEN,  
Registrar-General.

39678

No. 267.

NEW SOUTH WALES.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 11th November, 1907.)

[Copy to Registrar-General, 15th November, 1907. L.F.]

(No. 94.)

MY LORD,

State Government House, Sydney, 3rd October, 1907.

WITH reference to your Lordship's "Miscellaneous" despatch of the 20th June last\* in regard to the improvement of the existing facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom, I have the honour to enclose copy of a report in the matter which has been furnished by the Registrar-General, and to state that Ministers advise me that the terms of the Draft Bill—other than the title—appear to be unobjectionable.

2. At present the marriage law of this State does not require the giving of notice before marriage, but when amending the law Ministers intend to consider the question of requiring some notice to be given.

I have, &c.,  
HARRY H. RAWSON,  
Governor.

Enclosure in No. 267.

(1907/13958.)

REPORT of Registrar-General on Letter from the Secretary of State for the Colonies respecting the Facilities for Marriage between British Subjects in the Colonies and those resident in the United Kingdom.

The proposal referred to in the attached papers is that where notice of a marriage is required, provision should be made for the notice to be given in the place where one of the parties to an intended marriage resides although the marriage is to be celebrated in some other part of the Empire, so that when such party arrives in the place where the marriage is to be celebrated he may not be required to wait for the statutory period after notice has been given but may produce a certificate from the proper authority in the place where notice has been given.

The convenience of such an arrangement would undoubtedly be very great, especially in cases where the intended bride travels away from her home. The proposed law, however, would not be applicable to New South Wales in the present state of the marriage law, inasmuch as no notice of any kind and no residential qualification is required before the celebration of marriage by a minister of religion.

\* No. 262.



Accordingly, a person coming here from England or any other part of the world may be married immediately on arrival, while anyone travelling from here could not take advantage of the provisions of the proposed law as no means exist of giving notice or obtaining a certificate that such has been done. This difficulty could be overcome by making provision in a local statute for notice of marriage to be given; the desirability of such a course has been pointed out on more than one occasion and need not be referred to at any greater length in the present report.

It will be observed that there is considerable difference in the length of notice and the formalities required in the countries referred to in the letter of the Registrar-General of England and Wales, but it appears to be the intention to regard as sufficient the notice (if any) required in any of the self-governing Colonies or Possessions and to accept, without further enquiry, a certificate purporting to be "issued by an authorised officer stating that all legal requirements have been complied with, &c."

The use of the term "Colonials" in the title of the proposed Act does not seem to be altogether appropriate in view of changes in designation which have recently been approved of in regard to Australia and New Zealand. Some such title as "Marriage of British Subjects (Facilities) Act, 1907," would appear to be sufficiently definite and more in accord with recent usage.

The Under-Secretary,  
Department of the Attorney-General and of Justice,  
17th September, 1907.

W. G. H. W.,  
Registrar-General.

40231

No. 268.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 16th November, 1907.)

[Copy to Registrar-General, 22nd November, 1907. L.F.]

(No. 323.)

MY LORD, Government House, Cape Town, 30th October, 1907.

I HAVE the honour to transmit to your Lordship, with reference to your despatch, Miscellaneous, of 20th June last,\* a copy of a minute from Ministers on the subject of the existing facilities for marriage between British subjects dwelling in the Colonies and others resident in the United Kingdom.

I have, &c.,  
WALTER HELY-HUTCHINSON.

Enclosure in No. 268.

MINISTERS to GOVERNOR.

(Minute. No. 1/606.)

Prime Minister's Office, Cape Town, 29th October, 1907.

Ministers have the honour to acknowledge the receipt of His Excellency the Governor's minute, No. 502, dated the 9th July last, transmitting a copy of a despatch, dated 20th June, 1907, from the Right Honourable the Secretary of State for the Colonies, on the subject of the existing facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom, and in reply thereto Ministers beg to state that our law empowers ministers of religion to accept certificates of publication of banns outside the Colony, which certificates dispense with the necessity of publishing banns within the Colony by the parties holding the certificates.

The Registrar-General's reference to the legislation of this Colony omits the latest enactment on the subject of marriage by banns, viz., Act No. 11 of 1906.

L. S. JAMESON.

\* No. 262.

41913

No. 269.

VICTORIA.

THE LIEUTENANT-GOVERNOR to THE SECRETARY OF STATE.

(Received 30th November, 1907.)

[Copy to Registrar-General, 12th December, 1907. L.F.]

(No. 56.)

MY LORD, State Government House, Melbourne, 23rd October, 1907.

IN compliance with the request contained in Your Lordship's despatch marked "Miscellaneous," of the 20th June last,\* I have the honour to transmit to you a copy of a report by the Government Statist, respecting the question of increasing the facilities for marriage between British subjects dwelling in the Colonies and British subjects dwelling in the United Kingdom, in the terms of which my Ministers concur.

I have, &c.,  
JOHN MADDEN.

Enclosure in No. 269.

I have considered the question of increasing the facilities for marriage between British subjects dwelling in the Colonies and British subjects dwelling in the United Kingdom dealt with in this file, and beg to report that, so far as regards Victoria, no further facilities are necessary in cases of British subjects outside of Victoria coming to Victoria to marry residents here. A person can be married in Victoria by a clergyman upon the day of arrival, or by the Government Statist, or by a registrar upon giving three days' notice. The facilities for marriage in the United Kingdom between a resident of Victoria and a resident of the United Kingdom are not so great, but that part of the subject appears to be sufficiently dealt with, so far as Victoria is concerned, in the draft Bill submitted by the Registrar-General of England.

E. T. DRAKE,  
Government Statist.

16th September, 1907.

41985

No. 270.

NATAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 30th November, 1907.)

[Copy to Registrar-General, 12th December, 1907. L.F.]

(No. 201.)

Government House, Pietermaritzburg,  
Natal, 7th November, 1907.

MY LORD, WITH reference to Your Lordship's "Miscellaneous" despatch, dated the 20th June, 1907,\* on the subject of the existing facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom, I have the honour to report that in a Minute of yesterday's date, Ministers here state that they are of opinion that the present facilities in this respect are adequate and that, so far as this Colony is concerned, they see no necessity for the introduction of the legislation proposed.

I have, &c.,  
M. NATHAN.

\* No. 262.



No. 271.

## QUEENSLAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 6th January, 1908.)

[Copy to Registrar-General, 20th January, 1908. L.F.]

(No. 47.)

Government House, Brisbane, Queensland,

28th November, 1907.

MY LORD,

WITH reference to your despatch, Queensland, Miscellaneous, of the 20th June last,\* with regard to the existing facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom, I have the honour to forward herewith a copy of a letter which I have received from my Premier on the subject.

I have sent a copy of this despatch to the Governor-General.

I have, &amp;c.,

CHELMSFORD,

Governor.

Enclosure in No. 271.

MY LORD,

Chief Secretary Brisbane, 25th November, 1907.

ADVERTING to a despatch, dated the 20th June last, which Your Excellency has received from the Secretary of State for the Colonies, accompanied by a copy of a letter from the British Registrar-General on the question of the existing facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom, I have the honour to append hereto some extracts from a report which I have received on the matter from the Queensland Registrar-General:—

"There being no requirements as to notice and the consequent issue of certificate or licence with respect to marriage in Queensland, it has always been the practice to permit either ecclesiastical or civil marriage without any notice, certificate, or licence, of any kind whatever, in cases where either one or both of the parties have just arrived in Queensland. This, it now appears, in the case of French, Italian, and Hungarian subjects renders the marriage either valueless or of a limited value only, and that too, regardless, I presume, of the time they have been in the State. Although such marriages are not numerous, still they take place. In the case of arrivals from the United Kingdom it is not very clear whether certificate or licence from there is now, or will be, if the proposed Bill becomes law, essential to valid marriage here. The liberty accorded as regards marriage is probably greater here and in New South Wales than in any part of the British Dominions. The other States of the Commonwealth demand some, and other possessions a considerable, degree of notice prior to marriage, here only sufficient time to prepare the necessary forms is required. There is no doubt that this liberty is much abused, and "clandestine marriages," which the Imperial Royal Commission on marriage law has said "it is the duty of the State to discourage," are very frequent, the performance of the ceremony being secured by means of fraud and perjury. I am of opinion that notice to, and issue of, certificate by the civil authority would be a desirable precedent to every marriage, but I doubt, in the event of the proposed Bill becoming Imperial Law, whether its provisions would, as things now are, be much availed of by persons arriving from the United Kingdom, and I feel sure they would, as a rule, rest content with the validity of their marriage in Queensland, rather than

\* No. 262.

accept the trouble and delay that would be involved in complying with the requirements of the proposed measure on the point."

I have, &amp;c.,

ROBT. PHILP.

His Excellency

The Governor of Queensland,  
Brisbane.

1122

No. 272

## SOUTH AUSTRALIA.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 11th January, 1908.)

[Copy to Registrar-General, 20th January, 1908. L.F.]

(No. 79.)

MY LORD,

Government House, Adelaide, 12th December, 1907.

WITH reference to your Lordship's despatch "Miscellaneous" of the 20th June,\* on the subject of marriages between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom, I have the honour to inform your Lordship that my Ministers are of opinion that no necessity exists for legislation increasing the facilities for such marriages where they are to be celebrated in this State.

2. I have the honour to transmit the enclosed copies of minutes from the Registrar-General of Births, Deaths, and Marriages, His Honour the Chief Justice Sir S. J. Way, and from the Crown Solicitor of this State upon the subject.

A copy of this despatch has been sent to the Governor-General.

I have, &amp;c.,

GEORGE R. LE HUNTE.

Enclosure 1 in No. 272.

SOUTH AUSTRALIA.

(285/1907.)

Office of the Registrar-General of Births, Marriages, and Deaths,  
Adelaide, 15th August, 1907.

SIR,

I HAVE the honour to return the accompanying correspondence, and to submit the following report in reference to it, that is, of course, as far as it suggests or implies the advisability of making some alterations in the Marriage Laws of this State.

In my opinion there is not the least necessity for altering the law with the view of improving the facilities for such marriages as those referred to in the correspondence *when they are to be celebrated here*. If one of the parties to such an intended marriage—let us suppose the gentleman—comes from the United Kingdom to South Australia, he is, the moment he lands, in precisely the same position as to facilities for getting married as if he had been a resident in this State all his life, and if he can manage to make the necessary arrangements the law will permit him to marry on the day of his arrival. If it be desired that the marriage should be a religious ceremony, then (including an Archbishop, two Bishops, and the clergymen and ministers of all the denominations in the State)—there are over 500 "officiating ministers," any one of whom can celebrate it, after he has taken the joint declaration of the parties, and issued a licence authorising him to marry them. The law in such cases imposes no condition as to length of residence in any district of the State or the State itself. The fees of officiating ministers are regulated by themselves—not fixed by Act of Parliament.

For many years past all their marriages have, without exception, been by licence, the licence being merely a printed form with a few particulars written in.

\* No. 262.



When at any time in an Anglican or Roman Catholic Church a marriage is celebrated after the publication of banns, the clergyman makes the proceeding legal by issuing a licence before the celebration, banns not being recognised by the law. If again, it be desired that the marriage should be a purely civil one, then application can be made to the Registrar-General, or the Deputy-Registrar, or if more convenient, a District Registrar, any one of whom can issue his licence and celebrate the marriage *at once*, the fees for such marriage being £3 10s. There is a less expensive but more complicated and less expeditious way of getting married by a Civil Registrar—that is, after having given him fourteen clear days' notice; but as it is never likely to be had recourse to in the case of a person coming all the way from the United Kingdom to get married here, I deem it unnecessary to give a detailed explanation respecting it, and mention it merely to show it has not been forgotten. It is the only mode referred to under the heading "South Australia" in "Enclosure 1" in the correspondence, but as a matter of fact, somewhat less than 50 marriages out of a total of about 2,300 celebrated each year, are contracted in this way.

It has now, I trust, been shown pretty clearly that when persons come from the United Kingdom to get married to persons residing here, the law offers no hindrance to their carrying out their intention as early as possible.

In reference to the proposals very clearly implied in Sections 1 and 2 of the Draft Bill (see Enclosure 2), I confess I am unable to see, though, of course, I may be wrong, what advantage this State would gain by agreeing to them. On the contrary, their adoption might, I think, be occasionally the cause of considerable inconvenience. A gentleman, for instance, from England, not being aware of the peculiar change in the law (which would probably take a long time in becoming a matter of public knowledge), might come to marry a lady here without bringing with him a certificate authorising his marriage. What would happen then? Presumably, unless the obtaining or non-obtaining of a certificate could be regarded as a matter of no consequence at all, he could not get married until by some prescribed length of residence here he acquired the right to do so as a person having his abode in the State. From a like cause a person going from here to England to get married might make a similar mistake. In fact, he would be more likely to be ignorant of the law, owing to the very few cases of such marriages of which he would have heard. In addition to the occasional inconvenience that might be caused, would it not be a strange and invidious inconsistency that a person coming from England to get married here should have to bring to this State a certificate authorising the marriage, while a person coming for a like purpose from one of the other Australian Dependencies—New Zealand for instance—would be under no such obligation?

Again, owing to the great size of some of our registration districts—some being over fifty or sixty or even a hundred miles long, and of enormous breadth—very little moral weight could in some cases be attached to a certificate issued by a District Registrar, though, of course, the law might make it a legal necessity. He would simply have received a notice from the applicant, who might reside 30 or 40 miles away, have entered the particulars in his notice book as the applicant had stated them, and after the expiration of a certain defined period of time, have issued his certificate showing that the formalities just specified had been complied with. Under the circumstances, he would not be obliged, neither would he be in a position to make enquiry as to the truth of the statements made by the applicant. What useful purpose, then, would be served by the necessity of obtaining a certificate from him before some intended marriage could be celebrated in the United Kingdom?

Having thus dealt as far as it seemed necessary with the intended alterations in the law suggested in the correspondence, I must now bring this report to a conclusion. I regret it has grown to such an extent.

I have, &c.,

JOHN A. PLUNKETT,  
Registrar-General.

The Honourable the Chief Secretary.

Enclosure 2 in No. 272.

MEMORANDUM for His Excellency the GOVERNOR.

1. The Private Secretary sent me a draft of a despatch as to marriages between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom for transmission by me as Deputy Governor by the mail leaving to-day. On looking through the papers it is evident that the reports which have been laid before Ministers have been directed to local conditions exclusively.

2. Obviously it would be an advantage to a Colonial subject going to England to be married to obtain a certificate here which would answer English requirements, and this advantage should, as the draft Bill proposes, be reciprocal. It is undoubtedly convenient that these reciprocal advantages should be secured by one legislative enactment for the whole Empire.

3. A licence to marry which may be obtained more readily here than in England is more expensive than marriage by certificate, although in the present prosperous state of things in Australia most people marrying appear to be able to pay for a licence.

4. Lord Elgin's despatch states that the proposed measure is to extend to the United Kingdom, but the rough draft Bill is limited to England.

5. The title of the Bill—"Marriage with *Colonials*"—is slipshod English, and would give legislative sanction to a slang expression, which would not be regarded as complimentary by His Majesty's Colonial subjects.

6. As the local Registrar-General points out, the statement of the law as to marriages in this State included in the memorandum enclosed in the English Registrar-General's letter to the Colonial Office is incomplete and inaccurate. I suggest that copies of the local Acts on the subject should accompany Your Excellency's despatch, the repealed provisions in the principal measure being struck out in red ink.

S. J. WAY,  
Deputy Governor.

Supreme Court,  
26th September, 1907.

Enclosure 3 in No. 272.

Returned to the Honourable the ATTORNEY-GENERAL,

I HAVE perused the correspondence, memorandum of the Registrar-General for England, and the suggested draft Bill as to marriages with Colonials, as well as the report furnished by the Registrar-General of Births, Deaths, and Marriages of this State, and I am of opinion that no necessity exists for legislation increasing the facilities for marriages between British subjects dwelling in the Colonies and British [? subjects] residing in the United Kingdom where the marriage is to be celebrated in this State.

17th September, 1907.

C. J. DASHWOOD,  
Crown Solicitor.

Enclosure 4 in No. 272.

Returned to the Honourable the ATTORNEY-GENERAL.

My minute of the 17th September last dealt only with the question of a marriage between a British subject residing in England, and a subject residing in this State, where the marriage was proposed to be celebrated here.

I have perused the minute of the Right Honourable the Chief Justice, and while adhering to the opinion that no necessity exists for Imperial legislation increasing facilities for marriage between residents of England and Colonial subjects resident in this State where the marriage is to be celebrated here, I agree that it would, as pointed out by His Honour the Chief Justice, be advantageous if a Colonial subject going to England to be married could obtain a certificate here, which would answer English requirements, and this arrangement might, if thought advisable, be made reciprocal, but I would point out that under our local enactments a subject usually resident in England, and arriving here to be married can obtain a certificate here as readily and speedily as a Colonial resident.



As suggested by His Honour the Chief Justice, I enclose copies of the local enactments on the subject, and have struck out of the principal Act in red ink such of its provisions as have been repealed.

18th November, 1907.

C. J. DASHWOOD,  
Crown Solicitor.

2600

No. 273.

CANADA: NEWFOUNDLAND.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL and GOVERNOR.

(Canada. No. 60.)

(Newfoundland. No. 16.)

MY LORD,  
SIR,

Downing Street, 7 February, 1908.

I HAVE the honour to draw your attention to my despatch, "Miscellaneous," of the 20th June, 1907,\* with regard to the facilities for marriage between British subjects resident in the Colonies and those resident in the United Kingdom.

I shall be glad to receive the observation of the Provincial Governments on the subject as soon as they are in a position to furnish them.

I have, &c.,  
ELGIN.

2600

No. 274.

TRANSVAAL: ORANGE RIVER COLONY.

THE SECRETARY OF STATE to THE GOVERNORS.

[Answered by Nos. 277 and 279.]

(Transvaal. No. 34.)

(Orange River Colony. No. 14.)

MY LORD,  
SIR,

Downing Street, 7 February, 1908.

I HAVE the honour to transmit to you a copy of a letter† from the Registrar-General covering a memorandum with regard to the existing facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom, and the draft of a Bill indicating the lines on which he would suggest that legislation should be proceeded with, to provide for improved facilities.

2. This letter was laid before the Colonial Conference in 1907, but the subject was not discussed owing to want of time and the number of other matters before the Conference.

3. I request that you will lay the Registrar-General's letter before your Ministers and invite their consideration of the questions raised by him.

I have, &c.,  
ELGIN.

\* No. 262.

† No. 261.

8272

No. 275.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 7 March, 1908.)

[Copy to Registrar-General, 17 March, 1908. L.F.]

(No. 31.)

Commonwealth of Australia, Governor-General's Office,  
Melbourne, 5 February, 1908.

MY LORD,

REFERRING to your Lordship's despatch "Miscellaneous," dated 20th June, 1907,\* covering a draft of a Bill to provide improved facilities for marriage between British subjects dwelling in the Colonies and others resident in the United Kingdom, I have the honour to inform your Lordship that my Prime Minister advises me that this matter has received the consideration of the Government. My Ministers are of opinion that it is very undesirable for the Parliament of Great Britain to legislate with respect to marriages in Australia; and it is therefore suggested that Clause 2, which would apply to marriages in Australia, should be omitted, or so modified as not to apply to the Commonwealth. If the facilities proposed by that clause are found to be necessary or desirable, they can be provided by local legislation.

2. It is not apparent to my Ministers that any additional facilities for marriages are at present necessary in Australia.

3. The Commonwealth Law Officers are of opinion that if the title prefixed to the draft, viz., "Draft Bill as to Marriage with Colonials," is intended as an indication of what the title of the Bill is to be, it is open to obvious objections, as is also the proposed short title. They, further, consider that the framing of the preamble might be altered with advantage, and add that if the Bill is considered necessary to provide increased facilities for marriages in England where one of the parties is domiciled in a British Colony, such facilities might perhaps be extended to cases where both parties to an intended marriage in England are domiciled in British Colonies.

I have, &c.,  
NORTHCOTE,  
Governor-General.

9592

No. 276.

THE REGISTRAR-GENERAL to COLONIAL OFFICE.

(Received 18 March, 1908.)

[Answered by No. 278.]

General Register Office, Somerset House,  
London, W.C., 17 March, 1908.

SIR,

I BEG to acknowledge receipt of Sir Charles Lucas's letter of the 9th ultimo (No. 2600/1908),† and to forward, herewith, as requested by the Earl of Elgin, a memorandum of my observations on the replies received from the Colonial authorities respecting the facilities for marriage between British subjects resident in the Colonies and those in the United Kingdom.

I have dealt with these replies in more or less general terms. Should the Secretary of State desire my opinion on any special point not touched upon in my memorandum I shall be pleased to deal with it in detail. There is one further point which should not be lost sight of, namely, that if it be decided to introduce a Bill, the terms of the Bill must be adapted to meet the requirements of Scotland and Ireland, and, if required, I shall be glad to consult my colleagues, the Registrars-General for Scotland and Ireland, on the subject.

I am, &c.,  
WM. C. DUNBAR,  
Registrar-General.

\* No. 262.

† Not printed.



## Enclosure in No. 276.

MEMORANDUM by the Registrar-General of England and Wales on replies received from various Colonial authorities *re* proposals for facilities for marriage between British subjects in the Colonies and those resident in the United Kingdom.

Replies have been received from New South Wales, Victoria, Queensland, South Australia, West Australia, Tasmania, New Zealand, the Cape of Good Hope, and Natal. Those from the Dominion of Canada, and Newfoundland, and the Transvaal are not yet to hand.

The reception of the proposed Bill by the various Colonial authorities is, on the whole, a favourable one, and in view of the differing circumstances of each Colony and of the fact that the existing want of facilities in this direction has been more felt in this country than in the Colonies, the opinions expressed are as favourable as could reasonably be expected. The cases in which women go out to the Colonies and settle are more numerous than are those in which Colonial residents come to this country for the purpose of getting married. The latter is a comparatively rare event, but it is possible that in the future such cases will become more frequent.

In the main there is a disposition to account the existing facilities for marriage in the Colonies as sufficient, but to accept the principles of the proposed Bill. It is notable that in New South Wales and Queensland, where marriages can be contracted without previous notice, the draft Bill and Memorandum have emphasised the undesirability of this state of things, which, in the words of the Registrar-General for Queensland, leads to frequent clandestine marriages, obtained by fraud and perjury. There seems to be good ground for hoping that a change in the local law will ensue, which, while taking away the dangerous facility for marriage without notice, will provide for the facilities intended by the draft Bill, not only as regards persons residing in the United Kingdom, but also as regards persons residing in other parts of His Majesty's Dominions.

From the tenor of the correspondence with New South Wales and Queensland there seems a likelihood that these Colonies may adopt this desirable course.

The authorities in Victoria hold out no promise in this direction, and there is no indication that they share the view taken by the authorities in New South Wales and Queensland that notice of marriage is desirable as a safeguard against clandestine marriages.

On the other hand, it would appear, from the Government Statist's despatch, that they are in a position to issue a certificate for production in this country where a Victorian resident desires to marry here.

I may also point out that an important factor has apparently not always been kept in view, namely, that the proposed Bill is an enabling and not a disabling one—and that it will accordingly *not* remove any existing facility for the marriage of persons going from England to one of the Colonies, but will in some case provide additional facilities.

The Registrar-General for South Australia raises the point that persons can be married by licence immediately on arrival in the Colony, and appears to consider that this meets all requirements. He says that "there is a less expensive but more complicated and less expeditious way of getting married by a Civil Registrar—that is after having given him fourteen days' clear notice," and adds his opinion that it is never likely to be had recourse to for the marriage of a person arriving from the United Kingdom. The fact remains that any persons who are not prepared to pay £3 for a licence can now only be married in the "more complicated and less expeditious way," and the object of the proposed Bill is to remove this disability in the case of persons going out from the United Kingdom. A similar state of matters exists as regards Tasmania.

The point raised by the report from the Cape of Good Hope is also one of the existence or non-existence of a disability. From the copy of the Act II of 1906 which is now in the possession of my Department, it does not appear that this Act modifies the regulations as to *Civil* procedure. It is probably not within the cognizance of the Cape authorities that English women going out to be married and desirous of giving notice in this country can only do so by means of "Banns," and that "lawful publication of Banns" in England can only take place in a Church

of England. In the case of dissenters this necessity for publication in a church to which they do not belong is looked upon as a decided disability, which the proposed Bill would remove if the Cape authorities made a Superintendent-Registrar's Certificate under the Bill equally valid with one of publication of Banns. It can, however, occasion no surprise that the point as to the facilities in the proposed Bill being given by the *Civil* authority here has been largely overlooked, for in Colonies where no established Church exists, and where all religious denominations are on the same legal footing, the conditions obtaining here would not be apparent.

Another point raised by the Registrar-General for South Australia is as to the amount of "moral weight" to be attached to the Certificate of a Colonial District Registrar. Obviously the precise manner in which notice of marriage should be published in Colonial districts of wide area is a matter for the consideration of the various Colonial Legislatures concerned. It may, however, at least be said that notice in the district of residence makes it possible that an impediment to the marriage, which may be known in the Colony but not known in England, may be brought to light.

The point raised by the Registrar-General of West Australia as to marriage with a deceased wife's sister has ceased to apply.

The New Zealand Act is evidently interpreted in such a way that the facilities desired do actually, in practice, exist in that Dominion. There appears, however, to be a disposition to follow legislation in the country on the lines of the proposed Bill by legislation in the Dominion to enable certificates to be issued for production here.

As the opinion of the Natal Ministers that the present facilities are adequate is confined to the bare expression of this opinion, I am unable to discuss it.

As regards the Short Title—several of the Colonial authorities condemn the term "Colonials" as "derogatory" and as being rather of the nature of slang. The Registrar-General for New South Wales suggests as an alternative "Marriage of British Subjects (Facilities) Act," and I think some such alteration in the Short Title would be desirable.

W. C. D.

Somerset House,  
17 March, 1908.

12022

No. 277.

ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 4 April, 1908.)

(No. 42.)

Governor's Office, Bloemfontein, Orange River Colony,

16 March, 1908.

MY LORD,

I HAVE the honour to acknowledge the receipt of your despatch, No. 14, of the 7th ultimo,\* relative to the existing facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom.

2. My Ministers are in favour of legislation of the nature suggested in the draft Bill forwarded by the Registrar-General, which is intended to afford improved facilities for marriages of this description.

3. Ministers are, however, of opinion that no legislation should be instituted in this Colony until the Imperial Parliament have passed a law on the lines suggested in the draft Bill referred to. Such a law would serve as a guide, and would tend to secure uniformity in any legislation on the subject which may be introduced by the various Colonies.

I have, &c.,

HAMILTON GOOLD-ADAMS.

Governor.

\* No. 274.



No. 278.

## COLONIAL OFFICE to THE REGISTRAR-GENERAL.

SIR,

Downing Street, 23 April, 1908.

I AM directed by the Earl of Crewe to acknowledge with thanks the receipt of your letter of the 17th of March\* on the subject of the proposed legislation respecting the facilities for marriage between British subjects in the Colonies and those resident in the United Kingdom.

2. I am to transmit to you, for your information, copy of the reply† now received from the Governor of the Orange River Colony with regard to the question, and to state that Lord Crewe will defer any expression of his views until he has received replies from all the Colonies.

I am, &amp;c.,

H. BERTRAM COX.

16651

No. 279.

## TRANSVAAL.

## THE GOVERNOR to THE SECRETARY OF STATE.

(Received 9 May, 1908.)

(No. 120.)

MY LORD,

Governor's Office, Johannesburg, 18 April, 1908.

WITH reference to your predecessor's despatch, No. 34, of the 7th February,† I have the honour to enclose, for your information, a copy of a Minute from Ministers on the subject of the existing facilities for marriage between British subjects in the United Kingdom and the Colonies.

I have, &amp;c.,

SELBORNE,

Governor.

Enclosure in No. 279.

(Minute, 241.)

Prime Minister's Office, Pretoria, 15 April, 1908.

With reference to His Excellency the Governor's Minute, No. 84/6/08, of the 27th February, 1908, transmitting despatch, No. 34, from the Right Honourable the Secretary of State on the subject of the existing facilities for marriage between British subjects in the United Kingdom and the Colonies, Ministers have the honour to state that they have no objections to offer to the proposed legislation indicated in the draft Bill which accompanied His Excellency's Minute.

LOUIS BOTHA.

16651

No. 280.

## THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

- |                               |                                    |
|-------------------------------|------------------------------------|
| (1. New Zealand. No. 95.)     | (8. Tasmania. No. 20.)             |
| (2. Canada. No. 315.)         | (9. Western Australia. No. 24.)    |
| (3. Newfoundland. No. 81.)    | (10. South Australia. No. 32.)     |
| (4. Australia. No. 177.)      | (11. Cape. No. 103.)               |
| (5. Victoria. No. 29.)        | (12. Natal. No. 91.)               |
| (6. New South Wales. No. 46.) | (13. Transvaal. No. 140.)          |
| (7. Queensland. No. 34.)      | (14. Orange River Colony. No. 62.) |

MY LORD,

SIR,

Downing Street, 5 June, 1908.

I HAVE the honour to transmit to you, for the information of your Ministers,

\* No. 276.

† No. 277.

‡ No. 274.

copies of the replies\* received from the various Dominions and States to my predecessor's despatch, Miscellaneous, of the 20th of June, 1907,† on the subject of facilities for marriage between British subjects residing in the United Kingdom and other parts of the Empire. [Omit to 2 and 3. The Governments of Newfoundland and Canada have not yet replied.]

[2. To 2 and 3 only. I should be glad to learn the views of the Provincial Governments on this matter at their early convenience.]

I have, &c.,  
CREWE.

\* Nos. 263, 264, 266 to 272, 275, 277 and 279.

† No. 262.



Co 886/1/7

Printed for the use of the Imperial Conference Secretariat.

Dominions

No. 7.

CONFIDENTIAL.

## FURTHER CORRESPONDENCE

[July, 1908, to February, 1909.]

RELATING TO THE

# IMPERIAL CONFERENCE.

(In continuation of Dominions No. 5 ; continued by Dominions No. 11.)

COLONIAL OFFICE,  
May, 1909.



# TABLE OF CONTENTS.

NOTE.—The asterisk placed against some of the serial numbers indicates that the full print will be found in a Parliamentary Paper; the Indexes are printed here for convenience.

Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
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## I.

### (Resolution I.) Imperial Conference Secretariat.

1908.					
1	To the Governor-General and Governor.	Canada, 501. New Zealand, 139.	August 18	States that if Ministers desire to make any comments on the Colonial Office despatch of 21st September, 1907, Lord Crewe will be glad to receive them as soon as possible.	1

## II.

### (Resolution V.) Judicial Appeals.

2	Privy Council Office	—	August 6	Encloses prints of the proposed new rules regulating the practice and procedure in Appeals to His Majesty in Council (a) in England, (b) in the Colonies, with explanations; suggests legislation by the Dominions on the lines stated.	1
3	To the Governors-General and Governors.	Canada, 532. Australia, 300. New South Wales, 75. Victoria, 49. Queensland, 55. Tasmania, 39. South Australia, 49. Western Australia, 36. Newfoundland, 128. New Zealand, 144. Cape, 179. Natal, 151. Transvaal, 262. Orange River Colony, 101.	August 29	Transmits copy of the proposed new rules for regulating the practice and procedure in Appeals to His Majesty in Council, which have been drafted with a view to meeting the case of the self-governing Dominions, and suggests their adoption, with local adaptations, either by Order of His Majesty in Council or by Act of the local Parliament.	10

Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
1908.					
4	To Privy Council Office.	—	September 2	Transmits copy of No. 3...	10
5	The Deputy Governor.	South Australia, 76.	November 19 (Rec. Dec. 21.)	Transmits copy of a minute from himself as Chief Justice to Ministers on the subject of No. 3, and requests that his Majesty the King may be moved to issue an Order in Council enacting the rules as suggested in the minute in question.	11
6	Ditto ...	Transvaal, 447.	December 7 (Rec. Dec. 28.)	Encloses copy of a minute from Ministers accepting, generally, the rules enclosed in No. 3 as being preferable to those in use in the Colony, and asking that they may be enacted by an Order in Council.	13
1909.					
7	To the Deputy Governor.	South Australia, 9.	January 15	Acknowledges the receipt of No. 5, and states that steps will be taken for the issue of an Order in Council as desired.	13
8	To the Privy Council Office.	South Australia.	January 16	Transmits copy of No. 5, with draft of an Order in Council, and enquires whether the rules regulating procedure in England have yet been approved by Order in Council.	13
8A	Privy Council Office	South Australia.	January 22	Concurs in terms of proposed Order in Council.	14
9	To the Governors-General and Governors.	Canada, 67. Australia, 42. Newfoundland, 20. New South Wales, 21. Victoria, 11. Queensland, 14. South Australia, 17. Western Australia, 13. Tasmania, 17. Cape, 35. Natal, 26. Transvaal, 39. Orange River Colony, 19. New Zealand, 27.	February 3	Transmits copies of an Act (8 Ed. 7, ch. 51) of the Imperial Parliament, entitled "An Act to amend the Law with respect to the Judicial Committee of the Privy Council and the Court of Appeal in England" and explains alterations made by it in the existing law.	14



Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
			1909.		
9A	To the Governor ...	Transvaal, 70.	February 27	Transmits copies of an Order in Council of 15th February making provision for Appeals from the Supreme Court of the Transvaal to His Majesty in Council.	15

## III.

## Appointment of Trade Commissioners in Colonies and Supply of Information respecting Colonial Legislation affecting Trade Interests.

			1908.		
10	To the Governor-General.	Canada, 399.	July 4	Notifies appointment of Mr. R. Grigg as His Majesty's Trade Commissioner in Canada, and that he will proceed to the Dominion on 10th July; states nature of Mr. Grigg's duties and requests that he may be afforded the assistance already offered.	15
11	Ditto ...	Canada, Confidential.	July 4	Transmits copy of the instructions issued by the Board of Trade to Mr. Grigg and to the correspondents in the Dominion, of the Commercial Intelligence Branch of the Board of Trade.	16
12	Board of Trade ...	—	July 8	Reports appointment of Messrs. Wickes, Rolleston, and Holland to Australia, New Zealand, and South Africa, and requests that the respective Governments may be notified; encloses copies of instructions to Trade Commissioners and local correspondents.	16
13	To the Governor-General and Governors.	Australia, New Zealand, Cape, Natal, Transvaal, Orange River Colony, Telegram.	July 10	Notifies appointment of Trade Commissioners to Australia, New Zealand, and South Africa.	17
14	Ditto ...	Australia, 232. New Zealand, 123. Cape, 132. Natal, 118. Transvaal, 188. Orange River Colony, 81.	July 10 July 11	Requests that Ministers may be notified of the appointments of Messrs. Wickes, Rolleston, and Holland as Commercial Agents for the Colonies indicated, and encloses list of gentlemen appointed as correspondents; states nature of duties, and trusts that full reports will be made by telegraph as hitherto on all commercial matters directly or indirectly involving political issues.	18

Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
			1908.		
15	To the Governor-General and Governors.	Australia, Confidential, 2, New Zealand. Cape, Natal, Transvaal, Orange River Colony—Confidential.	July 10 July 11	Transmits copies of the instructions issued by the Board of Trade to the Trade Commissioners and to the local correspondents referred to in the Commissioners' Instructions.	18
16	To Board of Trade	—	July 13	Transmits copies of Nos. 13, 14, and 15	19
17	The Governor ...	Newfoundland, 95.	July 23 (Rec. Aug. 1.)	Transmits copy of a letter from the Prime Minister reporting Mr. Le Messurier's acceptance of the terms offered by the Board of Trade as their correspondent in Newfoundland.	19
18	The Governor-General.	Canada, 322	July 23 (Rec. Aug. 1.)	Transmits, with reference to No. 10, approved minute of Privy Council expressing the conviction that the appointment of Mr. Grigg will improve trade relations with the United Kingdom, and agreeing to furnish Mr. Grigg with such commercial information as he may desire.	20
19	To the Board of Trade.	Newfoundland.	August 14	Transmits copy of No. 17, and requests an opportunity of seeing the instructions proposed to be issued to Mr. Le Messurier before they are finally settled.	20
20	The Governor ...	New Zealand, 53.	July 11 (Rec. Aug. 24.)	States that a telegraphic summary of such Bills as are referred to in Secretary of State's despatch of September 4, 1907, will be sent home either when they are introduced into Parliament (in which case information will be sent as soon as they have passed) or when they have passed both Houses.	21
21	To the Governor ...	New Zealand, 148.	September 2	Acknowledges receipt of No. 20, and asks that Ministers may be referred to No. 14.	21
22	Board of Trade ...	Newfoundland.	December 9	Transmits copies of the instructions which are being sent by the Board to Mr. Le Messurier; and requests that the Newfoundland Government may be asked to send by telegraph information relating to matters of a really urgent character.	21
23	To the Governor ...	Newfoundland, Confidential.	December 16	Transmits copies of the instructions which have been issued to Mr. Le Messurier.	22



Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
			1908.		
24	To the Governor ...	New-found-land, 185.	December 16	States that the Board of Trade only requires information on matters of a really important and urgent character to be telegraphed; and that it would be convenient if an account of such expenditure were rendered half-yearly.	22

## IV.

(Resolution X.) (a) Coastwise Trade in the Colonies. (b) Trade between the United States and its Colonies.

			1908.		
25	The Governor-General.	Canada, 339.	August 4 (Rec. Aug. 18.)	Forwards copy of an approved Minute by the Privy Council, submitting a certified copy of an Act, intituled "An Act to Amend the Canada Shipping Act," which provides for the admission of foreign vessels to the coasting trade in certain contingencies, and asks that His Majesty's pleasure in regard to it may be signified at an early date.	23
26	To Board of Trade	Canada	August 21	Transmits copy of No. 25, and requests to be informed whether there is any objection to His Majesty's assent being given to the Act.	24
27	Board of Trade ...	Canada	September 21	States that there is no objection to His Majesty's assent being given to the Act, but suggests that the Canadian Government should be informed that, under most-favoured-nation rights, certain countries could claim participation in any privileges granted to any other nation.	24
28	To the Governor-General.	Canada, 557.	September 25	Sanctions the Act enclosed in No. 25, and requests that Ministers may be reminded that should any country be admitted to the privilege contemplated by the Act, certain countries would be entitled to claim it in virtue of Treaty rights.	25
29	To Board of Trade	Canada	September 26	Transmits copy of No. 28, and asks to be furnished with a list of the countries entitled to most favoured treatment in matters of navigation in Canada.	25
30	Foreign Office ...	Canada	October 16	Transmits copy of a Note from the Danish Minister enquiring whether, under the new Canadian Act, the privilege of participation in the coasting trade will be granted to foreign vessels which have hitherto enjoyed it under reciprocity, and asks what answer should be returned.	25
31	Board of Trade ...	Canada	October 21	Gives a list of the countries entitled to most-favoured-nation treatment in Canada in matters of navigation.	26

Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
			1908.		
32	To the Governor-General.	Canada, 639.	October 21	Transmits copy of the enclosure in No. 30, and asks what answer Ministers would desire to be returned to the Government of Denmark.	27
33	To Foreign Office...	Canada	October 29	Transmits copy of No. 31, and draft of a despatch to the Governor-General.	27
34	To the Governor-General and Governors.	Australia, 398. New Zealand, 195. New-found-land, 173. Cape, 261. Natal, 217. Transvaal, 395. Orange River Colony, 152.	November 20	Transmits copy of Nos. 25 and 28 ...	28
35	Foreign Office ...	Canada	November 25	Considers that "coasting trade" is not included in general stipulations regarding commerce and navigation, but that it must be actually specified in a Treaty; Austria-Hungary and Japan would alone appear to be entitled to most-favoured-nation treatment in this matter in Canada, and suggests that the draft in No. 33 to the Governor-General should be amended accordingly.	28
36	To the Governor-General.	Canada, 738.	December 3	Conveys purport of No. 35 ...	29
37	To Foreign Office...	Canada	December 4	Transmits copy of No. 36 ...	29
38	To Board of Trade	Canada	December 4	Transmits, in reply to No. 31, copies of Nos. 35, 36, and 37.	29
			1909.		
39	Foreign Office ...	Canada	January 5	Transmits copy of a despatch from the Danish Minister on the subject of the continued admission of Danish vessels to the privileges of the Canadian coasting trade, and asks for an early reply from the Canadian Government.	30
40	Board of Trade ...	Canada	January 22	Transmits a copy of a letter to the Foreign Office, taking exception to the view laid down in No. 35 as to the treaty rights of foreign nations in respect of the coasting trade.	30
41	The Governor-General.	Canada, 14.	January 12 (Rec. Jan. 25.)	Forwards in reply to No. 32 copy of a Minute of the Privy Council stating that it must not be assumed that Danish ships will continue to be admitted to the privileges of the Canadian coasting trade after 1st January, 1909 unless under the modified conditions set forth in Orders in Council of 17th and 31st December, 1908.	32



Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
<b>1909.</b>					
42	To the Governor-General.	Canada, 65.	January 30	Acknowledges the receipt of No. 41 and states that the Secretary of State for Foreign Affairs has been requested to communicate the decision of Ministers to the Danish Government.	34
43	To Foreign Office...	Canada	January 30	Transmits copy of No. 41 ... ..	34
44	To the Governor-General and Governors.	Australia, 71. New Zealand, 38. Newfoundland, 26. Natal, 37. Cape, 54. Transvaal, 55. Orange River Colony, 28.	February 18	Transmits copies of two memoranda respecting further Orders in Council of the Canadian Government relating to the coasting trade.	34

## V.

## (Resolution XI (1).) Draft Model Treaty of Commerce and Navigation.

<b>1908.</b>					
45	The Governor-General.	Canada Confidential.	June 29 (Rec. July 11.)	Transmits approved Minute of Privy Council containing the observations of responsible advisers on the Secretary of State's despatch of 22nd May.	35
46	The Governor ...	New Zealand Confidential.	June 4 (Rec. July 14.)	Submits memorandum from Ministers on the subject of the draft Treaty.	35
47	To the Governor ...	New Zealand Confidential.	August 4	Acknowledges receipt of No. 46 and refers in reply to the Secretary of State's despatch of 22nd May which shows that His Majesty's Government have not been able to adopt the suggestion of Australia that a self-governing Dominion might have the option of adhering to certain clauses of a Treaty only.	36
48	To the Governor-General.	Canada Confidential.	August 4	Acknowledges receipt of No. 45 and transmits copy of No. 46.	37
49	To the Governor-General and Governors.	Australia, Newfoundland, Cape, Transvaal, Orange River Colony, Natal, Confidential.	August 4	Transmits copies of Nos. 45 and 46 ...	37

Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
<b>1908.</b>					
50	To Board of Trade and Foreign Office.	Canada New Zealand.	August 4	Transmits copies of Nos. 45, 46 and 47...	37
51	The Governor ...	Orange River Colony, Confidential.	August 17 (Rec. Sept. 5.)	States that Ministers have no remarks to offer on the despatch of 22nd May.	38
52	To the Governors-General and Governors.	Confidential	September 16	Transmits copy of No. 51 ... ..	38
53	The Governor-General.	Australia, Confidential.	August 27 (Rec. Oct. 3.)	States that the Commonwealth Government has no objection to the draft treaty of commerce and navigation so long as it is free to deal with such subjects as the differential treatment of British and Australian shipping, reciprocity with other countries, and restriction of immigration.	38
54	To the Governor-General and Governors.	Canada Newfoundland, New Zealand, Cape, Natal, Transvaal, Orange River Colony—Confidential.	October 9	Transmits copy of No. 53 ... ..	39

## VI.

## (Resolution XI (2).) Withdrawal of Colonies from certain Treaties.

<b>1908.</b>					
55	Foreign Office ...	—	July 9	Concurs in the Colonial Office view as to the Anglo-Colombian Treaty of 1886, that there are grave objections to a treaty which makes, in regard to purely political rights, a distinction between British subjects according to the place of their birth or residence and sees no objection to the new treaty proposed; asks if it is desired to consult the self-governing Dominions before further action is taken.	39
56	To the Governor-General.	Canada, 408.	July 9	Transmits copies of the Arbitration Convention between the United Kingdom and the United States of America as ratified at Washington on 4th June.	40



Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
1908.					
57	To the Governor-General and Governors.	Australia, 221. New Zealand, 120. Newfoundland, 105. Cape of Good Hope, 127. Natal, 114. Transvaal, 182. Orange River Colony, 79.	July 9	Transmits copies of the Arbitration Convention between the United Kingdom and the United States of America as ratified on 4th June, and points out that His Majesty's Government have reserved the right, before concluding a special agreement under the Convention in any matter affecting the interests of a self-governing Dominion, to obtain the concurrence therein of the Government of that Dominion.	40
58	To Foreign Office...	—	July 28	Acknowledges No. 55 and states that Lord Crewe considers it unnecessary further to consult the self-governing Dominions on the matter; suggests that the proposed treaties with Salvador and Guatemala should each be divided into two parts—the one political, to which a general adhesion will be given, and the other commercial containing the usual clauses as to withdrawal and adherence.	40
59	The Governor ...	Newfoundland, 93.	July 22 (Rec. Aug. 1.)	Transmits copy of Ministers' minute expressing pleasure that His Majesty's Government have reserved the right, in the Arbitration Convention between the United Kingdom and the United States of America, of obtaining the concurrence of the Dominion Government affected by any proposed special agreement under the Convention.	41
60	Foreign Office ...	Queensland.	August 28	Transmits copy of a despatch to His Majesty's Ambassador at Tokio instructing him to formally notify the Japanese Government of the adherence of Queensland to the Anglo-Japanese Treaty of 1894.	42
61	Ditto ...	Queensland.	September 4	Transmits copy of a despatch from His Majesty's Ambassador at Tokio, reporting that formal notice has been given to the Japanese Government of the adherence of Queensland to the Anglo-Japanese Treaty of 1894.	42
62	To the Acting Governor-General.	Australia, 312	September 4	Transmits copy of the enclosure in No. 61.	43
63	The Governor ...	Orange River Colony, 121.	August 17 (Rec. Sept. 5.)	Acknowledges No. 57, and expresses Ministers' satisfaction at the reservation indicated.	44

Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
1908.					
64	To the Governors-General and Governors.	Canada, 556. Australia, 315. Newfoundland, 134. New Zealand, 152. Cape of Good Hope, 191. Natal, 160. Transvaal, 284. Orange River Colony, 111.	September 11	Transmits copy of Declaration which has been accepted by the Government of Liberia providing for the withdrawal of any of the self-governing Dominions from the Treaty with Liberia of 1848.	44
65	Foreign Office ...	—	September 22	Acknowledges the receipt of No. 58; transmits copy of a letter from the Board of Trade pointing out objections to the proposed Declaration and suggesting that the self-governing Dominions should be enabled to withdraw from Articles II. to XI. and XX. of the Treaty of 1866; expresses Sir E. Grey's concurrence in the view expressed by the Board of Trade, and proposes to send instructions accordingly to his Majesty's Minister at Bogota.	44
66	Ditto ...	Queensland.	October 14	Transmits despatch from His Majesty's Ambassador at Tokyo enclosing translation of a note from the Japanese Government, acknowledging the receipt of formal notice of the termination of the adherence of Queensland to the Anglo-Japanese Treaty of 1894.	46
67	To the Governor-General.	Australia, 363.	October 20	Transmits copy of the enclosure in No. 66.	47
68	To Foreign Office...	—	October 22	Expresses Lord Crewe's concurrence in the proposals of the Board of Trade; enquires if Sir E. Grey concurs in the proposal made in No. 58.	47
69	Foreign Office ...	—	November 2	Transmits draft of a despatch to Mr. Stronge, at Bogota, instructing him to communicate the views of His Majesty's Government.	48
70	Ditto ...	—	November 4	Concurs in the view set forth in No. 58; suggests that His Majesty's Minister at Guatemala should be instructed to invite the Government of that Republic to agree to the specified alterations in the Draft Treaty, and states that Sir E. Grey proposes to instruct Mr. Carden to invite the Salvadorian Government to agree to similar alterations.	49



Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
<b>1908.</b>					
71	To the Governors-General and Governors.	Canada, 782. Australia, 439. Transvaal, 449. Orange River Colony, 168. Cape, 295.	December 24	Corrects the implication made in a previous despatch from the Secretary of State that colonies, such as the Transvaal and Orange River Colony, which were not parts of the Empire when the Anglo-Egyptian Commercial Convention of 1889 was concluded, were for that reason not bound by it; but points out that as a result of the Additional Agreement the Convention is no longer applicable to those colonies.	50
<b>1909.</b>					
72	To Foreign Office...	—	January 9	Acknowledges the receipt of Nos. 69 and 70, and states that Lord Crewe would suggest, for Sir E. Grey's consideration, that these letters, with the previous correspondence, should be referred to a Committee composed of representatives of the Foreign Office, the Board of Trade, the India Office, and the Colonial Office, with instructions to consider and report upon the various questions involved.	50
72A	Foreign Office ...	—	February 2	Accepts the proposal for an Interdepartmental Committee to consider the points raised in Nos. 69 and 70, and suggests arrangements for its first meeting.	51

## VII.

## (Resolution XIV.) Uniformity of Trade Statistics.

<b>1908.</b>					
73	Board of Trade ...	South Africa.	July 1	States that the Board will be happy to arrange for such consultations with Mr. Lewis, the Principal of the South African Customs Statistical Bureau, as may be necessary.	52
74	To the Governor ...	Cape of Good Hope, 144.	July 31	Transmits copy of No. 73, and states that it is understood that Mr. Lewis is now in consultation with officials of the Board of Trade; and that it is assumed that the other South African Colonies concerned concur in the arrangement.	52
75	To the High Commissioner and Governors.	South Africa, 364. Transvaal, 209. Orange River Colony, 88. Natal, 130.	July 31	States that, as the result of representations made by the Cape Government, it is understood that Mr. Lewis is now in consultation with officials of the Board of Trade, and that it is assumed that the Governments addressed concur in the arrangement.	53

Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
<b>1908.</b>					
76	The Governor ...	New Zealand, 50.	June 30 (Rec. Aug. 18.)	Encloses a copy of a Memorandum by the Prime Minister making certain comments on the note of the Board of Trade.	53
77	The Governor-General.	Australia, 192.	July 22 (Rec. Aug. 31.)	Transmits six copies of the Revised Statistical Classification of Commonwealth Imports and Exports.	54
78	To the Governor-General and Governors and High Commissioner.	Australia, 425. New Zealand, 209. Newfoundland, 184. Cape, 290. Natal, 246. Transvaal, 434. Orange River Colony, 164. South Africa, 607.	December 14	Transmits copy of a statement prepared by the Board of Trade, summarising the replies from the self-governing Dominions on the subject of greater uniformity in the trade statistics of the Empire.	55
79	To the Governor-General.	Canada, 756.	December 14	Transmits copy of an extract from the Enclosure in No. 78, and asks for an intimation of the views of his Ministers.	59
<b>1909.</b>					
80	The Governor-General.	Canada, 20.	January 19 (Rec. Feb. 1.)	Encloses copy of an approved minute of the Privy Council showing that the Canadian Government are not disposed to accept the suggestions made.	60
81	To the Governor-General.	Canada, 133.	March 3	Communicates views of the Board of Trade on No. 80.	61

## VIII.

## (Resolution XV.) Uniformity in Company Law.

<b>1908.</b>					
82	The Governor ...	New Zealand, 38.	May 23 (Rec. July 7.)	Reports that in the event of the passing of an Imperial Act, Ministers would be prepared to consider any amendments of the Companies Act, 1903, and meanwhile would be glad to receive any suggestion tending to uniformity and simplification.	61
83	Ditto ...	Orange River Colony, 95.	July 6 (Rec. July 25.)	Transmits Minute from Ministers proposing to postpone dealing with the question until it has been ascertained whether joint action by all or most of the South African Colonies is feasible.	62
84	The Administrator	Orange River Colony, 164.	September 28 (Rec. Oct. 17.)	Transmits a copy of a Minute by Ministers expressing sympathy with the views of the New Zealand Government.	62



Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
<b>1909.</b>					
85	To the Governors-General and Governors.	Canada, 50. Australia, 30. New-found-land, 18. New South Wales, 12. Victoria, 8. Queens-land, 10. South Australia, 12. Western Australia, 10. Tasmania, 13. Cape of Good Hope, 26. New Zealand, 20. Natal, 19. Transvaal, 30. Orange River Colony, 16.	January 25	Transmits copy of an Imperial Act which places companies incorporated in British possessions, and having a place of business in the United Kingdom upon the same footing, as regards the holding of land, as trading companies registered in the United Kingdom.	63
86	Ditto ...	Canada, 91. New-found-land, 23. Australia, 55. New Zealand, 34. Cape, 42. Natal, 32. Transvaal, 49. Orange River Colony, 25.	February 12	Transmits copies of "The Companies (Consolidation) Act, 1908" (to Australia) and asks to be furnished with a copy of the Bill dealing with Company Law, which it is proposed to introduce into the Commonwealth Parliament.	64
87	To the Governors...	New South Wales, 28. Victoria, 13. Queens-land, 16. South Australia, 22. Western Australia, 15. Tasmania, 19.	February 12	Transmits copy of "The Companies (Consolidation) Act, 1908."	64

Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
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## IX.

## (Resolution XVII.) Reciprocity in the Admission of Surveyors to Practise.

<b>1908.</b>					
88	To the Governor-General.	Canada, 636.	October 20	Requests that Ministers may be asked for a reply to the Secretary of State's despatch of 8th April at their earliest convenience.	64
89	To the Governors and Governor-General.	New Zealand, 173. Cape, 227. Natal, 186. Transvaal, 319. Orange River Colony, 127. New-found-land, 153. New South Wales, 91. Victoria, 70. Queens-land, 67. South Australia, 61. Western Australia, 51. Tasmania, 52. Australia, 362.	October 20	Forwards copy of No. 88 ...	65

## X.

## (Resolution XIX.) Naturalization.

90	To the Governors-General and Governors.	Canada, 678. Australia, 386. New-found-land, 167. New Zealand, 188. Cape, 245. Natal, 205. Transvaal, 372. Orange River Colony, 141.	November 9	Encloses a report of an Inter-Departmental Committee on the subject of naturalisation within His Majesty's Dominions, containing suggestions for obviating the objections raised at the Colonial Conference of 1907; and asks that the representatives of the various Dominions in London be authorised to discuss the question with the Inter-Departmental Committee with the view, if possible, of arriving at a final agreement on the terms of the Draft Bill.	65
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Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
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## XI.

## Naval Defence: Australia and New Zealand.

1908.					
91*	The Governor ...	New Zealand, 14.	March 17 (Rec. Apr. 21.)	Transmits copy of a memorandum from Ministers requesting that they should be given the option of acquiring an obsolete man-of-war for the purpose of training young men for the Imperial Navy and the mercantile marine.	66
92*	To the Governor ...	New Zealand, 66.	April 30	Inform him that the request of Ministers for an obsolete man-of-war has been commended to the favourable consideration of the Admiralty.	66
93*	Ditto ...	New Zealand, 91.	May 29	Inform him that the Admiralty regret there is no suitable vessel at present available for use as a training ship, but they will be glad to render all possible assistance in case the Government should desire to buy a vessel from the mercantile marine.	67
94	To Admiralty ...	Australia	August 11	Calls attention to a telegram in the "Times," of 11th August, stating that Mr. Deakin expressed the hope that he would soon receive the draft of the Admiralty's Naval Scheme, in order to enable the Defence Bill to be passed before the end of the present Session; trusts that the Admiralty will very shortly be able to forward the scheme promised on 29th May.	67
95*	Admiralty ...	Australia	August 20	Conveys views of the Admiralty on the scheme for a local naval force proposed by the Prime Minister of the Commonwealth, and promises the co-operation of the Admiralty in carrying out the scheme, subject to a further expression of opinion from the Commonwealth Government.	67
96*	To the Governor-General.	Australia, 288.	August 21	Transmits No. 95 for the information of Ministers.	67
97*	Ditto ...	Australia, Telegram.	August 24	Notifies despatch of No. 96, and gives estimate of the cost of the Naval Defence Scheme.	68
98	To Admiralty ...	Australia	September 7	States that No. 95 has been forwarded to the Commonwealth Government for consideration, and discusses the question of the local naval force maintained at the expense of that Government.	68
99	Ditto ...	Australia	September 15	States that a copy of No. 98 has been forwarded to the Treasury Solicitor for consideration.	69
100*	To the Governor ...	New Zealand, 161.	September 25	Transmits copy of No. 96 ...	70
101*	The Governor ...	New Zealand, Telegram.	(Rec. Oct. 2)	Reports that the Naval Subsidy Bill has passed both Houses.	70

Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
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## 1908.

102*	To the Governor ...	New Zealand, Telegram.	October 2	Expresses pleasure of His Majesty's Government at the passing of the Naval Subsidy Bill.	70
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## 1909.

103	Admiralty ...	New Zealand.	February 24	Explains why the iron and steel ships now in use in the Royal Navy are unsuitable for the purpose of training boys for naval life; suggests that more suitable vessels could be obtained from the mercantile marine, but promises to give every assistance possible in the direction of complying with the wishes of the New Zealand Government should they still desire to have a vessel from the Royal Navy.	70
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104	To the Governor ...	New Zealand, 47.	February 26	Transmits a copy of No. 103, and asks to be informed whether, after considering the latter, his Ministers still desire to have a vessel for use as a sea-going training ship.	72
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## XII.

## Naval Defence: Cape Colony.

## 1908.

105	The Governor ...	Cape of Good Hope, 251.	October 12 (Rec. Oct. 31.)	Transmits copy of a minute from Ministers forwarding a report drawn up by a Board specially appointed for that purpose on the subject of the Naval Volunteer Reserve scheme, and copy of a letter addressed to the Commander-in-Chief on the station.	72
106	To Admiralty ...	Cape of Good Hope.	November 18	Transmits copy of No. 105, and asks for observations.	83

## XIII.

## Stamp Duties upon Colonial Securities.

107	To Treasury ...	New South Wales.	July 16	Transmits copy of a despatch from the Governor of New South Wales forwarding a resolution of the recent Conference of Premiers in favour of the abolition of Stamp Duties upon the issue of Colonial Government Securities in this country, and calls attention to the discussion of the matter at the recent Colonial Conference; requests that the Premier of Queensland may be granted an interview with the Chancellor of the Exchequer for the purpose of discussing the question.	84
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Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
1908.					
108	To the Governor ...	New South Wales, 100.	November 13	States reasons for which His Majesty's Government have, with sincere regret, come to the conclusion that it is not possible to meet the wishes of the State Governments with regard to the abolition of Stamp Duties upon issues of all Colonial Government Securities.	84
109	To the Governors-General and Governors.	Canada, 680. Australia, 389. Newfoundland, 170. Victoria, 75. Queensland, 72. South Australia, 72. Western Australia, 56. Tasmania, 57. Cape, 248. Orange River Colony, 144. New Zealand, 190. Transvaal, 381. Natal, 207.	November 13	Transmits copy of correspondence with the Governor of New South Wales on the subject of the request of the State Premiers that Stamp Duties upon the issue of Colonial Government Securities should be abolished by the Imperial and Colonial Governments.	85

#### XIV. Copyright.

110	To Board of Trade	—	July 10	Transmits drafts of despatches which will be addressed, if desired, to the Governments of the self-governing Dominions; submits remarks on the constitutional position taken up by the Board of Trade, and suggests reference to the Law Officers of the question whether the self-governing Colonies have the right to legislate with regard to copyright within their jurisdiction of works published elsewhere.	86
111	The Governor-General.	Australia, 188.	July 7 (Rec. Aug. 10.)	Forwards letter from Prime Minister accepting the procedure proposed by the Imperial Government, and submitting observations.	86
112	Board of Trade ...	—	August 20	Explains more fully the attitude of the Board, and trusts that the Secretary of State will propose to the Colonial Governments a subsidiary conference in the form of the draft agreed to by the Board.	88

Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
1908.					
113	To the Governors-General and Governors.	Canada, 542. Australia, 306. New Zealand, 149. Newfoundland, 132. Cape of Good Hope, 185. Natal, 157.	September 2 and 3.	States that the replies received from the various self-governing Dominions have caused His Majesty's Government to abandon the proposed legislation, but enquires whether Ministers would send a representative to a subsidiary conference to be held, say, at Ottawa to discuss amendments on certain specific points of the existing law.	88
114	To the Governors...	Transvaal, 270. Orange River Colony, 108.	September 3	Ditto ... ..	89
115	To the Governors-General and Governors.	Telegram	September 14	Asks that Ministers may not regard suggestion made as to place of meeting of Conference as final, as Conference may have to be held in London.	90
116	Ditto ... ..	Confidential.	October 23	Transmits copies of the instructions which have been issued to the British delegates to the International Conference of the Union for the Protection of Literary and Artistic Works, now sitting at Berlin, and of a declaration by his Majesty's Government, as to their position with regard to copyright legislation.	90
117	The Deputy Governor.	Transvaal, 390.	November 2 (Rec. Nov. 21.)	Reports that the subject is receiving the consideration of Ministers, who are consulting the other South African Governments.	93
118	The Governor ...	Natal, 276.	November 16 (Rec. Dec. 12.)	Reports, in reply to No. 113, that his Government are proposing to the other South African Governments that the South African Colonies should be jointly represented at the proposed Conference by Sir R. Solomon.	93
119	Ditto ... ..	Cape, 284.	November 30 (Rec. Dec. 21.)	Transmits copy of a minute from Ministers, expressing the opinion that a Conference is not desirable, of letters from the Transvaal and Natal, who conditionally approve, and of a further minute from Ministers adhering to their original opinion.	94
120	Ditto ... ..	New Zealand, 87.	November 23 (Rec. Dec. 31.)	Reports, in reply to No. 113, that his Government would be prepared to send a representative to such a conference.	97



Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
<b>1909.</b>					
121	The Governor ...	Cape, 3.	January 5 (Rec. Jan. 25.)	Transmits copy of minute of the Government of the Orange River Colony, stating that if a joint representative is appointed they will consider the matter.	97
122	The Governor-General.	Australia, 321.	December 31 1908, (Rec. Feb. 6, 1909.)	Transmits copy of memorandum by the Attorney-General and the Registrar of Copyrights; reports that Lord Tennyson will represent the Commonwealth at the Conference and that instructions are being issued to him.	98
123	The Deputy Governor.	Transvaal, 19.	January 18 (Rec. Feb. 6.)	Transmits copy of a minute from Ministers expressing the opinion that it would be better if His Majesty's Government would submit draft clauses for consideration of the Colonial Governments but that if a Conference is preferred Ministers will be prepared to consult the other South African Governments as to the appointment of a joint representative.	101
124	The Governor ...	Orange River Colony, 15.	February 1 (Rec. Feb. 20.)	Reports that if the other South African Governments decide to send a joint representative, his Ministers are prepared to take the matter into consideration.	102

### XV. Marriage Facilities.

<b>1908.</b>					
125	The Deputy Governor-General.	Canada, 408.	September 29 (Rec. Oct. 17.)	Forwards copy of an approved Minute of the Privy Council submitting documents containing the desired expression of views on the memorandum of the Registrar-General.	102
126	To the Registrar-General.	—	November 4	Transmits copy of No. 125 and of a memorandum summarising the replies received from the various self-governing Dominions on the proposed legislation; and requests that Lord Crewe may be informed whether legislation in the modified form suggested should be proceeded with, or whether the proposal in its entirety should be laid aside for the present.	109
127	The Registrar-General.	—	December 4	States that he is strongly of opinion that legislation on the modified lines indicated in No. 126, should be proceeded with at the earliest possible date, and that he will be glad to help in the preparation of a draft bill, if the Secretary of State approves the suggestion.	112
<b>1909.</b>					
128	To the Registrar-General.	—	February 15	States that the Secretary of State would be glad to consider a bill drafted on the lines suggested in No. 126 and asks if he could be furnished at the same time with a memorandum explaining the advantages to be derived from the passing of such a bill.	112

Serial No.	From or to whom.	Dominion, Despatch No., &c.	Date.	Subject.	Page.
<b>XVI. Suez Canal Dues.</b>					
<b>1908.</b>					
129	The Governor-General.	Australia, 197.	July 22 (Rec. Aug. 31.)	Reports that Prime Minister calls attention to the Suez Canal Company's Report for 1907, as supplying further evidence in favour of a reduction of rates and urges that steps in this direction should be taken.	113
130	The British Directors of the Suez Canal Company to Sir E. Grey.	(No. 27)	October 5	Replies to the representations from the Australian Government in favour of reduced dues; points out that the interests of the mail steamship owners and of owners of "tramp" steamers are not identical, and states that the Council of the Company consider that increased facilities for traffic must take precedence of any reduction in dues.	113
131	To the Governor-General.	Australia, 396.	November 20	Transmits copy of No. 130 and regrets that His Majesty's Government do not see their way to obtain a reconsideration of the decision conveyed in October, 1906.	114
132	To the Governor ...	New Zealand, 194.	November 20	Transmits copies of correspondence on the subject of the proposed reduction of dues levied on vessels passing through the Suez Canal.	115



THE SECRETARY OF STATE FOR THE COLONIES  
 [July, 1908, to February, 1909]

## FURTHER CORRESPONDENCE

[July, 1908, to February, 1909]

RELATING TO THE

# IMPERIAL CONFERENCE.

## I.

### Resolution I.

#### Imperial Conference Secretariat.

15061

No. 1.

CANADA: NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL and GOVERNOR.

(Canada. No. 501.)  
 (New Zealand. No. 139.)

My LORD,  
 I HAVE the honour to refer to my despatch No. [262], [73], of the 15th May,\* and to request you to inform your Ministers that, if they desire to make any comments on Lord Elgin's despatch of the 21st September last† on the subject of the re-organization of the Colonial Office, I shall be glad to receive them as soon as may be convenient.

I have, &c.,  
 CREWE.

## II.

### Resolution V.

#### Judicial Appeals.

28975

No. 2.

PRIVY COUNCIL OFFICE to COLONIAL OFFICE.

(Received 8 August, 1908.)

[Answered by No. 4.]

Privy Council Office, Downing Street,  
 London, S.W., 6 August, 1908.  
 REFERRING to Mr. Bertram Cox's letter of the 18th December, 1907

\* No. 13 in Dominions No. 5. † [Cd. 3795.]



(No. 26,067),\* I am desired by the Lords of the Judicial Committee to send you prints of proposed new rules regulating the practice and procedure in Appeals to His Majesty in Council (a) in England,† (b) in the Colonies, and to add the following observations for the information of the Secretary of State:—

1. The rules, which, in their present form, have been approved by their Lordships, are designed, when taken together, to give effect to the resolutions submitted by the Government of Cape Colony to, and accepted by, the Colonial Conference, 1907 ([Cd. 3523], p. 229), on the subjects of the practice and procedure of the Judicial Committee, and the conditions giving right of appeal to His Majesty in Council.

2. The two sets of rules are mutually supplementary, but for the reasons stated in paragraph 4 (c) of the Introductory Note to the Colonial Rules, it was thought convenient to re-state in the latter certain of the English Rules.

3. The English Rules relate predominantly to procedure in England, and their Lordships think that no useful purpose would be served by sending them out to the Colonies now. They would, of course, be communicated to the Colonial authorities as soon as they have been approved by Order in Council, which their Lordships trust will be at no distant date.

4. The Colonial Rules are not intended to apply to India (which has a Code of Procedure of its own), and were, indeed, drafted with an eye more particularly to the self-governing Colonies, though it is hoped that they will be found to be equally applicable to the Crown Colonies.

5. As to the method of enacting the Colonial Rules, I am to ask your attention to paragraphs 3 to 5 (more particularly paragraph 5) of the Introductory Note, and to suggest that a convenient course might be for the Colonial Office to invite the self-governing Colonies to send home, for the consideration of the Colonial Office and of the Lords of the Judicial Committee, a draft of an Order in Council, Letters Patent, or Statute, as the case may be, embodying all the rules regulating the procedure in the respective Colonies on Appeals to His Majesty in Council, the printed rules sent herewith being adopted as a standard, the blanks being supplied, and such alterations and additions being suggested as the requirements of each Colony may seem to make desirable.

With respect to the Crown Colonies, I have to express a hope that the Secretary of State may think fit to cause the necessary steps to be taken for the adoption, in due course, in those Colonies of the Colonial Rules when adapted to the particular circumstances of the respective Colonies.

I am, &c.,  
E. S. HOPE,  
Registrar of the Privy Council.

Enclosure 2 in No. 2.

*Confidential.*

#### DRAFT COLONIAL APPEAL RULES.

##### INTRODUCTORY NOTE.

1. The Colonial Conference 1907 ([Cd. 3523], p. 226) passed the following (amongst other) resolutions:—

- (iii) "That, with a view to the extension of uniform rights of appeal to all Colonial subjects of His Majesty, the various Orders in Council, Instructions to Governors, Charters of Justice, Ordinances and Proclamations upon the subject of the Appellate jurisdiction of the Sovereign should be taken into consideration for the purpose of determining the desirability of equalising the conditions which gave right of appeal to His Majesty."

\* No. 28 in Dominions No. 5.

† Not reprinted.

- (iv) "That much uncertainty, expense, and delay would be avoided if some portion of His Majesty's prerogative to grant special leave to appeal in cases where there exists no right of appeal were, under definite rules and restrictions, delegated to the discretion of the local courts."

2. In a Memorandum dated March, 1907, which was before the Conference ([Cd. 3524], pp. 185-6), the Registrar of the Privy Council stated as follows:—

"There are certain provisions in every Order in Council, Charter, &c., regulating Appeals to His Majesty in Council which must be common to every set of circumstances, and indeed every new Order in Council regulating Appeals as a rule contains such provisions. The principal variations are the appealable amount, the limit of time for appealing as of right, and the lodging of security for costs. A uniform Order applicable to every part of the Dominions beyond the Seas could apparently only be made after consultation with each Colony or Dependency interested, and it would seem improbable that there would be unanimity as to the points of variation just mentioned. A skeleton Order could, however, be framed containing common provisions revised so as to meet modern requirements, leaving the particular provisions suitable to each Colony or Dependency to be inserted after consultation with the proper authorities."

These views were endorsed by the Lord Chancellor at the Conference ([Cd. 3523], p. 219).

3. The draft Rules appended hereto are intended to supply an Order of the kind referred to by the Registrar of the Privy Council. In the drafting of the Rules all the suggestions that have been made by the various Colonial authorities\* have been taken into account, and have, as far as practicable, been given effect to. It is not to be expected, having regard to the great variety of local conditions, that absolute uniformity of practice can be attained, even if such uniformity were in itself desirable. But it is hoped that substantial uniformity in all essentials can be achieved, if the proposed rules are adopted as a standard, to be varied or supplemented in such a way as the Colonial authorities, having regard to local conditions, think most expedient.

4. The following general observations may serve to explain the aim and scheme of the Rules:—

- (a) It has been thought convenient to depart from the older form of Orders in Council and to state the practice on Appeals in the shape of a series of numbered Rules. Some of the Colonial authorities have made suggestions to this effect.

- (b) The Rules are based on the assumption that the Court appealed from is best qualified to deal with any questions that may arise in connection with the Appeal up to the despatch of the Record to England. They seek, accordingly, to invest the Court with all necessary powers for that purpose. The Court is fully seised of the case up to the date of the order granting final leave to appeal, and where the making of that order is postponed till the Record is ready for despatch, no further questions arise. Where, however, as often happens, some time elapses between the final order and the despatch of the Record, questions may arise with which the Court, in the absence of express authority, may deem itself incompetent to deal. Some of the proposed Rules (especially Rules 20, 21, and 22) are designed to meet difficulties of this kind.

- (c) Rules 8 to 14 and 24 and 25 are practically identical with the corresponding Rules in a proposed new Order in Council consolidating the procedure on Appeals to His Majesty in Council in England, which

\* See [Cd. 3524], p. 187 *seqq.* Observations and suggestions were also received, after the close of the Conference, from the Australian Commonwealth and States.



Rules for the most part restate the existing practice. Considering the increasing tendency to print Records abroad, and the not infrequent practice (especially in Canadian appeals) of printing the Cases abroad, it will probably be found convenient to have the Rules on these subjects, so far as they affect the work done in connection with the Appeal in the Colony, restated in the present Rules.

(d) The question which has been raised (*e.g.*, by Natal) with regard to interest on the amount awarded to a respondent who is ultimately successful, has not been dealt with in these Rules, because in several Colonies the question is regulated by Statute, and it would seem more convenient that it should be so regulated. His Majesty in Council has power to award interest up to the date of His Majesty's Order in Council, but it is not usual to give any express direction on the matter, the assumption apparently being that the question can be left to the operation of local legislation.

5. The question as to the *method* of giving effect to these Rules is not dealt with in this Memorandum, as it appears to be rather one for the Colonial Office to determine—if necessary, after consultation with the various Colonial authorities. The present Rules of Appeal are established, for the most part, by Orders in Council, but in some cases by Charters, Proclamations or local Statutes.

E. S. HOPE,  
Registrar of the Privy Council.

1 August, 1908.

#### COLONIAL APPEAL RULES.

Observations.	Rules.
	1. In these Rules, unless the context otherwise requires:—
	"Appeal" means Appeal to His Majesty in Council;
	"His Majesty" includes His Majesty's heirs and successors;
	"Judgment" includes decree, order, sentence, or decision;*
	"Court"† means either the Full Court or a single Judge of the <i>Supreme Court</i> of according as the matter in question is one which, under the Rules and Practice of the <i>Supreme Court</i> , properly appertains to the Full Court or to a single Judge.
	"Record" means the aggregate of papers relating to an Appeal (including the pleadings, proceedings, evidence and judgments) proper to be laid before His Majesty in Council on the hearing of the Appeal;
	"Registrar" means the Registrar or other proper officer having the custody of the Records in the Court appealed from;
	"Month" means calendar month;
	Words in the singular include the plural, and words in the plural include the singular.
* These are the terms used in the existing Orders in Council, &c.	
† This definition may require modification in accordance with the practice of the local Court.	
Identical with the definition in the proposed new Judicial Committee Rules.	
See preceding note.	

Observations.	Rules.
This follows the phraseology of the existing Orders in Council, &c. and is similar to that used in the Indian Code of Procedure ( <i>s.</i> 596). It is also intended to remove doubts which have been expressed on behalf of the authorities in Natal, Newfoundland, and Tasmania whether, under the Orders or Charter, the appealable amount should be determined by reference to the amount at issue in the Appeal or by reference to the amount claimed by the Plaintiff in the Action.	2. Subject to the provisions of these Rules, an Appeal shall lie—
The appealable amounts vary from £300 to £2,000; £500 is the most usual amount.	(a) as of right, from any final judgment of the Court, where the matter in dispute on the Appeal amounts to or is of the value of £ sterling or upwards, or where the Appeal involves, directly or indirectly, some claim or question to or respecting property or some civil right amounting to or of the value of £ sterling or upwards; and
This provision seeks to give effect to Resolution IV.	(b) at the discretion of the Court, from any other judgment of the Court, whether final or interlocutory, if, in the opinion of the Court, the question involved in the Appeal is one which, by reason of its great general or public importance or otherwise, ought to be submitted to His Majesty in Council for decision.
This Rule follows the provisions of many existing Orders in Council, &c.	3. Where in any action or other proceeding no final judgment can be duly given in consequence of a difference of opinion between the judges, the final judgment may be entered <i>pro forma</i> on the application of any party to such action or other proceeding according to the opinion of the Chief Justice or, in his absence, of the senior puisne Judge of the Court, but such judgment shall only be deemed final for purposes of an appeal therefrom, and not for any other purpose.
* The number of days varies in the present Orders in Council, &c. Most of the Colonial Courts seem to think 21 days is a fair time.	4. Applications to the Court for leave to appeal shall be made by motion or petition within days* from the date of the judgment to be appealed from, and the Applicant shall give the opposite party notice† of his intended application.
† The length of the notice is not specified, as application for leave to appeal is often made immediately after judgment has been pronounced.	5. Leave to appeal under Rule 2 shall only be granted by the Court in the first instance—
‡ Various suggestions have been made as to this period. It seems to be agreed that three months is sufficient, but some Courts think it too long. The most convenient course would seem to be to fix three months as a maximum with a discretion in the Court to shorten the time.	(a) upon condition of the Appellant, within a period to be fixed by the Court but not exceeding three months‡ from the date of the hearing of the application for leave to appeal, entering into good and sufficient security, to the satisfaction of the Court, in a sum not exceeding £500, for the due prosecution of the Appeal, and the payment of all such costs as may become payable to the Respondent in the event of the Appellant's not obtaining an order granting him final leave to appeal, or of the Appeal being dismissed for non-prosecution, or of His Majesty in Council ordering the Appellant to pay the Respondent's costs of the Appeal (as the case may be); and
This clause aims at securing to the Court full control over the proceedings until the despatch of the Record.	(b) upon such other conditions (if any) as to the time or times within which the Appellant shall take the necessary steps for the purpose of procuring the preparation of the Record



Observations.	Rules.
	and the despatch thereof to England as the Court, having regard to all the circumstances of the case, may think it reasonable to impose.
This Rule follows the provisions of many existing Orders in Council, &c.	6. Where the judgment appealed from requires the Appellant to pay money or perform a duty, the Court shall have power, when granting leave to appeal, either to direct that the said judgment shall be carried into execution or that the execution thereof shall be suspended pending the Appeal, as to the Court shall seem just, and in case the Court shall direct the said judgment to be carried into execution, the person in whose favour it was given shall, before the execution thereof, enter into good and sufficient security, to the satisfaction of the Court, for the due performance of such order as His Majesty in Council shall think fit to make thereon.
This Rule is designed to remove doubts as to the power of the Court to supervise the Record.	7. The preparation of the Record shall be subject to the supervision of the Court, and the parties may submit any disputed question arising in connection therewith to the decision of the Court, and the Court shall give such directions thereon as the justice of the case may require.
See Introductory Note, para. 4 (c) as to Rules 8-14.	8. The Registrar, as well as the parties and their legal Agents, shall endeavour to exclude from the Record all documents (more particularly such as are merely formal) that are not relevant to the subject-matter of the Appeal, and, generally, to reduce the bulk of the Record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copied or printed shall be enumerated in a list to be placed after the index or at the end of the Record.
	9. Where in the course of the preparation of a Record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant, and the other party nevertheless insists upon its being included, the Record, as finally printed (whether in or in England), shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate in the index of papers, or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.
	10. The Record shall be printed in accordance with the Rules set forth in the Schedule hereto. It may be so printed either in or in England.
	11. Where the Record is printed in the Registrar shall, at the expense of the Appellant, transmit to the Registrar of the Privy Council 40 copies of such Record, one of which copies he shall certify to be correct by signing his name on, or initialing, every eighth page thereof and by affixing thereto the seal, if any, of the Court.*
* The existing Order in Council (13 June, 1853) requires 48 plain copies and 2 certified copies.	12. Where the Record is to be printed in England, the Registrar shall, at the expense of the Appellant,

Observations.	Rules.
	transmit to the Registrar of the Privy Council one certified copy of such Record, together with an index of all the papers and exhibits in the case. No other certified copies of the Record shall be transmitted to the Agents in England by or on behalf of the parties to the Appeal.
	13. Where part of the Record is printed in and part is to be printed in England, Rules 11 and 12 shall, as far as practicable, apply to such parts as are printed in and such as are to be printed in England respectively.
	14. The reasons given by the judge, or any of the judges, for or against any judgment pronounced in the course of the proceedings out of which the Appeal arises shall by such judge or judges be communicated in writing to the Registrar, and shall by him be transmitted to the Registrar of the Privy Council at the same time when the Record is transmitted.
The consolidation of two or more Appeals before the Records arrive in England saves much expense.	15. Where there are two or more applications for leave to appeal arising out of the same matter, and the Court is of opinion that it would be for the convenience of the Lords of the Judicial Committee and all parties concerned that the Appeals should be consolidated, the Court may direct the Appeals to be consolidated and grant leave to appeal by a single Order.
This Rule is intended to remove doubts as to the power of the Court to deal with the costs in the circumstances stated.	16. An Appellant who has obtained an order granting him conditional leave to appeal may at any time prior to the making of an order granting him final leave to appeal withdraw his Appeal on such terms as to costs and otherwise as the Court may direct.
This Rule is intended to remove doubts as to the power of the Court to act in the manner provided by the Rule. Some of the Colonial authorities have expressed an opinion that, at present, they have no way of penalizing an Appellant who unduly delays his application for an order finally admitting his Appeal.	17. Where an Appellant, having obtained an order granting him conditional leave to appeal, and having complied with the conditions imposed on him by such Order, fails thereafter to apply with due diligence to the Court for an order granting him final leave to appeal, the Court may, on an application in that behalf made by the Respondent, rescind the order granting conditional leave to appeal, notwithstanding the Appellant's compliance with the conditions imposed by such Order, and may give such directions as to the costs of the Appeal and the security entered into by the Appellant as the Court shall think fit, or make such further or other order in the premises as, in the opinion of the Court, the justice of the case requires.
This Rule is intended to meet certain questions as to notice raised by some of the Colonial authorities.	18. On an application for final leave to appeal, the Court may inquire whether notice, or sufficient notice, of the application has been given by the Appellant to all parties concerned, and, if not satisfied as to the notices given, may defer the granting of the final leave to appeal, or may give such other directions in the matter as in the opinion of the Court, the justice of the case requires.
This Rule follows the provisions of many existing Orders in Council, &c.	19. An Appellant who has obtained final leave to appeal shall prosecute his Appeal in accordance with the Rules for the time being regulating the general



Observations.	Rules.
The Court, being <i>functus officio</i> , cannot, apparently, itself dismiss the Appeal.	practice and procedure in Appeals to His Majesty in Council.
The last preceding Note applies equally to this Rule. Some of the Colonial authorities have pointed out that the matter dealt with by this Rule is the cause of much of the delay in prosecuting Appeals.	20. Where an Appellant, having obtained final leave to appeal, desires, prior to the dispatch of the Record to England, to withdraw his Appeal, the Court may, upon an application in that behalf made by the Appellant, grant him a certificate to the effect that the Appeal has been withdrawn, and the Appeal shall thereupon be deemed, as from the date of such certificate, to stand dismissed without express Order of His Majesty in Council, and the costs of the Appeal and the security entered into by the Appellant shall be dealt with in such manner as the Court may think fit to direct.
It is conceived that, in the circumstances stated in this Rule, the Court, though <i>functus officio</i> , is still the most convenient authority to deal with the defect in the Record. Under the existing practice, a formal King's Order is required to cure the defect. Complaints have been made of the expense of this procedure and this Rule is intended to suggest a simpler and less expensive way of disposing of the matter.	21. Where an Appellant, having obtained final leave to appeal, fails to show due diligence in taking all necessary steps for the purpose of procuring the despatch of the Record to England, the Respondent may, after giving the Appellant due notice of his intended application, apply to the Court for a certificate that the Appeal has not been effectually prosecuted by the Appellant, and if the Court sees fit to grant such a certificate, the Appeal shall be deemed, as from the date of such certificate, to stand dismissed for non-prosecution without express Order of His Majesty in Council, and the costs of the Appeal and the security entered into by the Appellant shall be dealt with in such manner as the Court may think fit to direct.
This Rule embodies the existing practice.	22. Where at any time between the order granting final leave to appeal and the despatch of the Record to England the Record becomes defective by reason of the death, or change of status, of a party to the Appeal, the Court may, notwithstanding the order granting final leave to appeal, on an application in that behalf made by any person interested, grant a certificate showing who, in the opinion of the Court, is the proper person to be substituted or entered on the Record in place of, or in addition to, the party who has died, or undergone a change of status, and the name of such person shall thereupon be deemed to be so substituted or entered on the Record as aforesaid without express Order of His Majesty in Council.
See Introductory note, para. 4 (c), as to Rules 24 and 25.	23. Where the Record subsequently to its despatch to England becomes defective by reason of the death, or change of status, of a party to the Appeal, the Court shall, upon an application in that behalf made by any person interested, cause a certificate to be transmitted to the Registrar of the Privy Council showing who, in the opinion of the Court, is the proper person to be substituted, or entered, on the Record, in place of, or in addition to, the party who has died or undergone a change of status.
	24. The Case of each party to the Appeal may be printed either in or in England and shall, in either event, be printed in accordance with the Rules set forth in the Schedule hereto, every tenth line thereof being numbered in the margin, and shall be signed by

Observations.	Rules.
	at least one of the Counsel who attends at the hearing of the Appeal, or by the party himself if he conducts his Appeal in person.
	25. The Case shall consist of paragraphs numbered consecutively and shall state, as concisely as possible, the circumstances out of which the Appeal arises, the contentions to be urged by the party lodging the same, and the reasons of appeal. References by page and line to the relevant portions of the Record as printed shall, as far as practicable, be printed in the margin, and care shall be taken to avoid, as far as possible, the reprinting in the Case of long extracts from the Record. The taxing officer, in taxing the costs of the Appeal, shall, either of his own motion, or at the instance of the opposite party, inquire into any unnecessary prolixity in the Case, and shall disallow the costs occasioned thereby.
This Rule states what is understood to be the existing practice in Colonial Courts.	26. Where the Judicial Committee directs a party to bear the costs of an Appeal incurred in such costs shall be taxed by the proper officer of the Court in accordance with the rules for the time being regulating taxation in the Court.
This Rule follows the provisions of most of the existing Orders in Council, &c.	27. The Court shall conform with, and execute, any order which His Majesty in Council may think fit to make on an Appeal from a judgment of the Court in like manner as any original judgment of the Court should or might have been executed.
See last preceding Note.	28. Nothing in these Rules contained shall be deemed to interfere with the right of His Majesty, upon the humble Petition of any person aggrieved by any judgment of the Court, to admit his Appeal therefrom upon such conditions as His Majesty in Council shall think fit to impose.
	<b>SCHEDULE.</b>
This Schedule corresponds to Schedule A. of the proposed new Judicial Committee Rules.	I. Records and Cases in Appeals to His Majesty in Council shall be printed in the form known as Demy Quarto (i.e., 54 ems in length and 42 in width).
	II. The size of the paper used shall be such that the sheet, when folded and trimmed, will be 11 inches in height and 8½ inches in width.
* This appears to be the most convenient type, and the one most generally in use in the Colonies and India.	III. The type to be used in the text shall be Pica type,* but Long Primer shall be used in printing accounts, tabular matter, and notes.
	IV. The number of lines in each page of Pica type shall be 47 or thereabouts, and every tenth line shall be numbered in the margin.



28975

No. 3.

## THE SECRETARY OF STATE to THE GOVERNORS-GENERAL and GOVERNORS.

[Answered by Nos. 5, 6.]

(Canada. No. 532.)	(Western Australia. No. 36.)
(Commonwealth of Australia. No. 300.)	(Newfoundland. No. 128.)
(New South Wales. No. 75.)	(New Zealand. No. 144.)
(Victoria. No. 49.)	(Cape of Good Hope. No. 179.)
(Queensland. No. 55.)	(Natal. No. 151.)
(Tasmania. No. 39.)	(Transvaal. No. 262.)
(South Australia. No. 49.)	(Orange River Colony. No. 101.)

MY LORD,  
SIR,

Downing Street, 29 August, 1908.

WITH reference to the discussion of the question of judicial appeals at the Colonial Conference of 1907, reported on pages 218, &c., of [Cd. 3523], I have the honour to transmit to [Your Excellency] [you], to be laid before your Ministers, the accompanying print of proposed new rules\* regulating the practice and procedure in appeals to His Majesty in Council in the Dominions.

2. These rules have been prepared in order to give effect to the resolutions submitted by the Government of the Cape of Good Hope, and approved at the Colonial Conference. They are not intended to apply to India, which has a Code of Procedure of its own, and have been drafted with a view to meeting the case of the self-governing Dominions, though they will also be applied in the case of the Crown Colonies.

3. I shall be glad if your Ministers will take into consideration whether it would not be desirable to remodel the rules as to appeals at present in force, on the basis of the printed rules sent herewith. In the case of each Dominion no doubt various alterations and additions will be required to adapt the proposed rules to local circumstances, but it is thought that the new rules might safely be adopted as a general model on which to base a revision of the rules already in force.

4. If your Government concur in this proposal it would, of course, be open to them either to enact the new rules by a law of the Parliament or to request His Majesty to issue an Order in Council enacting the rules. The latter course would have the advantage of leaving it open to alter any rule which may be found unsatisfactory in working by the simple issue of another Order in Council, thus obviating the delay and inconvenience of passing an amending Act through the Parliament. Whichever course, however, your Ministers decide to adopt, the Lords of the Judicial Committee would be glad if there could be sent to them for any suggestions which they might desire to make a draft of the proposed rules.

5. [To Canada only.] I shall also be glad if your Ministers will take steps to communicate the new Rules to the Provincial Governments and to invite them to consider whether it would not be desirable to remodel the existing rules on the basis of the new draft.

I have, &c.,  
CREWE.

28975

No. 4.

## COLONIAL OFFICE to PRIVY COUNCIL OFFICE.

SIR,

Downing Street, 2 September, 1908.

I AM directed by the Secretary of State for the Colonies to acknowledge the receipt of your letter of the 6th of August,† and, in reply, to transmit to you, for the information of the Lords of the Judicial Committee, copy of a despatch‡ which has been addressed to the Governors of the several Dominions on the subject of the proposed new rules regulating the practice and procedure in appeals to His Majesty in Council in the Dominions.

\* Enclosure in No. 2.

† No. 2.

‡ No. 3.

2. It will be seen that no reference has been made to the rules regulating procedure in England, which, however, will be communicated to the Dominion Governments as soon as they have been approved by Order in Council

I am, &c.,  
H. W. JUST.

46768

No. 5.

## SOUTH AUSTRALIA.

THE DEPUTY GOVERNOR to THE SECRETARY OF STATE.

(Received 21 December, 1908.)

[Answered by No. 7.]

(No. 76.)

MY LORD,

Government House, Adelaide, 19 November, 1908.

WITH reference to your Lordship's despatch, South Australia, No. 49, of the 29th August,\* on the subject of appeals to His Majesty in Council, I have the honour to transmit the enclosed copy of a minute from myself as Chief Justice to Ministers on the subject.

2. I have the honour, at the request of my Ministers, to respectfully ask that His Majesty the King be moved to issue an Order in Council enacting the rules as suggested in the minute in question.

3. For convenience of reference I also enclose a copy of my minute of the 6th October, 1905, referred to in my Minute of the 11th instant.

I have, &c.,  
S. J. WAY,  
Deputy Governor.

Enclosure 1 in No. 5.

(Returned to the Hon. the Chief Secretary).

I have conferred with the other Judges. We have no suggestions to make in respect of the accompanying draft rules which, as framed, cover the points raised in my Minute of 6th October, 1905, on C.S.O. 225/1904.

As regards the amount in respect of which there should be an appeal as of right (Rule 2a) we think the sum of £500 as now fixed for South Australia should be adhered to.

As to the time within which application for leave to appeal should be made (Rule 4) we consider 21 days as proposed a fair time, although here it is now 14 days only.

For the reasons stated in paragraph 4 of the despatch of the Right Honourable the Secretary of State for the Colonies, we think the better course will be to request His Majesty to issue an Order in Council rather than to pass a local Act for what after all is merely procedure.

S. J. WAY,  
Chief Justice.

11 November, 1908.

Enclosure 2 in No. 5.

MEMORANDUM by the CHIEF JUSTICE.

1. I have delayed reporting upon these papers as questions relating to appeals to His Majesty in Council from the Supreme Courts of the States are not matters of federal concern, and any communication on the subject with the Secretary of State should, it is submitted, be through the State and not the Federal Government. As, however, no despatch has been received by His Excellency the Governor from the Colonial Office I do not wish any objection as to the channel of communication

\* No. 3.



to prevent my assisting this Government to express its views on the matter under discussion.

2. The cost of appeals generally is not excessive, and the delays complained of are attributable almost entirely to the parties or their legal advisers.

3. It would be an advantage to consolidate the Orders in Council relating to appeals, especially if they are to be amended. The Orders have been reprinted in a collected form, and are readily accessible in official publications and text-books. The inconvenience of reference to them has been much exaggerated.

4. What is most wanted is some method of making the parties themselves proceed more promptly. The difficulty is that where both parties are dilatory an appellate tribunal is helpless to prevent delay. The only apparent remedy is to shorten the time for each successive step, and if the appellant is not sufficiently expeditious, to give the respondent the carriage of the proceedings or to dismiss the appeal.

5. Generally, I agree with the "observations and suggestions" made by the Registrar of the Judicial Committee on the Memorandum by the Chief Justice and Mr. Justice Mason of the Supreme Court of Natal. Mr. Buchanan, the Master of this Court, has given me his valuable assistance in considering these documents in detail. We only deem it necessary to offer the following additional remarks. (The bracketed numbers below correspond with those of the Registrar's observations):—

(5a) I agree that the Supreme Courts in Australia, like the Indian Courts, should have concurrent jurisdiction to give special leave to appeal in cases below the appealable amount. That much time would be saved in such cases is apparent from Indian experience.

(6) Under the Order in Council applicable to South Australia, the motion or petition for leave to appeal has to be set down to be heard in 14 days.

(8a) By the Order in Council of 16th March, 1905, an appellant is now able, without taking out Appearance Orders, to set down an appeal *ex parte* under conditions which ensure that the respondent has received ample notice, and has had reasonable time to appear. A frequent source of delay has thus been done away with.

(8b) Security has to be given in three months thereafter which is also the period allowed on appeals from the Supreme Courts to the High Court of Australia. I think three months too long, and that one month would be sufficient, power being given to the Court or a Judge to extend the time.

(8c) No time is limited for the preparation of the transcript, but one month would be ample in ordinary cases, power to enlarge it being given.

(8d) I do not agree with the Registrar that it is necessary to allow the respondent time to get advice in England before deciding to resist an appeal. On the other hand, I respectfully differ with the Judges of the Supreme Court of Natal that the respondent should be required to notify the name of his English Attorney.

(12) Clearly the present practice of requiring the cases to be signed by the counsel who are to argue them should be maintained.

(14) The practice here is to have the record printed in England as cheaper and more expeditious, and because the necessary re-editing of the document may lead to unnecessary matter being excluded.

S. J. WAY,  
Chief Justice.

Judges' Chambers,  
6 October, 1905.

47306

No. 6.

TRANSVAAL.

THE DEPUTY GOVERNOR to THE SECRETARY OF STATE.

(Received 28 December, 1908.)

[Answered 16 January, 1909, 47306: not printed.]

(No. 447.)

MY LORD,

Governor's Office, Johannesburg, 7 December, 1908.

WITH reference to your despatch of the 29th August, No. 262,\* I have the honour to enclose, for your information, a copy of a minute from Ministers on the subject of appeals to His Majesty in Council in the Dominions.

I have, &amp;c.,

METHUEN,  
Deputy Governor.

Enclosure in No. 6.

(Minute No. 697.)

Prime Minister's Office, Pretoria, 5 December, 1908.

Ministers have the honour to acknowledge the receipt of His Excellency the Governor's Minute, No. 84/18/1908, forwarding despatch, No. 262, from the Right Honourable the Secretary of State for the Colonies, dated the 18th September, 1908, on the subject of appeals to His Majesty in Council in the Dominions.

2. Ministers have carefully considered the Colonial Appeal Rules submitted to them, and are of opinion that they are preferable to the rules at present in force in this Colony.

3. Ministers, however, would suggest that the present limit of appeal—£2,000—be maintained, and that 21 days be the period specified in Rule 4 and three months in Rule 5.

4. Ministers are further agreed that it is not desirable to enact the new rules by local legislation, but Ministers beg to request that it may please His Majesty to issue an Order in Council enacting the rules as applicable to this Colony.

JACOB DE VILLIERS.

46768

No. 7.

SOUTH AUSTRALIA.

THE SECRETARY OF STATE to THE DEPUTY GOVERNOR.

(No. 9.)

SIR,

Downing Street, 15 January, 1909.

I HAVE the honour to acknowledge the receipt of your despatch, No. 76, of the 19th of November,† on the subject of appeals to His Majesty in Council.

2. His Majesty's Government have observed with satisfaction that your Government concur in the proposed alteration of the rules, and desire that they should be brought into force by an Order of His Majesty in Council.

3. Steps will accordingly be taken for the issue of an Order in Council in due course.

I have, &amp;c.,

CREWE.

46768

No. 8.

SOUTH AUSTRALIA.

COLONIAL OFFICE to PRIVY COUNCIL OFFICE.

[Answered by No. 8A.]

SIR,

Downing Street, 16 January, 1909.

WITH reference to the general correspondence on this subject, I am directed by the Earl of Crewe to transmit to you, to be laid before the Lords of the Judicial

• No. 3.

† No. 5.



Committee of the Privy Council, a copy of a despatch\* from the Deputy Governor of South Australia, on the subject of the proposed new rules regulating the practice and procedure in appeals to His Majesty in Council.

2. Their Lordships will no doubt be glad to observe that the Government of South Australia desire the issue of an Order in Council enacting rules in the form in which they were sent out for consideration by the State.

3. I am accordingly to enclose a draft† of an Order in Council, which, subject to any observations which their Lordships may desire to offer, Lord Crewe proposes to submit for the approval of His Majesty in Council.

4. At the same time, I am to enquire whether the rules regulating procedure in England, to which reference is made in the second paragraph of the letter from this Office of the 2nd of September,‡ have yet been approved by Order in Council. If so, he would be glad to receive copies for transmission to the Dominion Governments.

I am, &c.,  
H. W. JUST.

2584

No. 8A.

SOUTH AUSTRALIA.

PRIVY COUNCIL OFFICE to COLONIAL OFFICE.

(Received 22 January, 1909.)

Privy Council Office, Downing Street, London, S.W.,

22 January, 1909.

SIR,

I AM directed by the Lord President of the Council to acknowledge the receipt of Mr. Just's letter of the 16th instant,§ and to say, in reply:—

1. That His Lordship is glad to observe that the Government of South Australia desire the issue of an Order in Council enacting the proposed Colonial Appeal Rules in the form in which they were sent out for consideration, and concurs in the terms of the proposed Order in Council.

2. That the Rules regulating the practice and procedure in England were approved by His Majesty in Council on the 21st ultimo, and copies thereof were sent in due course to the Registrars of all the Courts from which appeals lie to His Majesty in Council.

I am, &c.,  
E. S. HOPE,  
Registrar of the Privy Council.

38418

No. 9.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

(Canada. No. 67.)

(Commonwealth of Australia. No. 42.)

(Newfoundland. No. 20.)

(New South Wales. No. 21.)

(Victoria. No. 11.)

(Queensland. No. 14.)

(South Australia. No. 17.)

(Western Australia. No. 13.)

(Tasmania. No. 17.)

(Cape of Good Hope. No. 35.)

(Natal. No. 26.)

(Transvaal. No. 39.)

(Orange River Colony. No. 19.)

(New Zealand. No. 27.)

MY LORD,

SIR,

Downing Street, 3 February, 1909.

I HAVE the honour to transmit to Your Excellency, for the information of your Ministers, the accompanying copies of an Act (8 Edward, 7 Ch. 51) of the Imperial Parliament, entitled "An Act to amend the Law with respect to the Judicial Committee of the Privy Council and the Court of Appeal in England."

2. I shall be glad if you will explain to your Ministers that the first section of this Act has been passed in order to carry out the suggestion, made by the Prime

\* No. 5.

† Not printed.

‡ No. 4.

§ No. 8.

Minister of New Zealand at the Colonial Conference of 1907 (see page 213 of [Gd. 3523]), in which the Lord Chancellor expressed his concurrence, that upon the hearing of an appeal from the Supreme Court of any self-governing Dominion, it should be possible for a judge of the Court from which the appeal is being brought to attend as an assessor of the Judicial Committee on the hearing of the appeal.

3. Opportunity has been taken of the passing of this Act, by Section 3, to include any justice of the High Court of Australia or of the Supreme Court of Newfoundland among those persons who shall, if Privy Councillors, be eligible to be members of the Judicial Committee of the Privy Council, and to add the Transvaal and the Orange River Colony to the schedule to the Judicial Committee Amendment Act, 1895.

4. Provision has also been made by Section 4 of the Act for any Member of the Judicial Committee to resign his office as member by giving notice of his resignation in writing to the Lord President of the Council.

5. I trust that the effect of the Act will be to add to the efficiency of the conduct of business by the Judicial Committee of the Council.

I have, &c.,  
CREWE.

6441

No. 9A.

TRANSVAAL.

THE SECRETARY OF STATE to THE GOVERNOR.

(No. 70.)

MY LORD,

Downing Street, 27 February, 1909.

WITH reference to my despatch, No. 19 of the 16th of January,\* I have the honour to transmit to you, for the information of your Ministers, one sealed and 12 plain copies of an Order of His Majesty in Council of the 15th of February, making provision for appeals from the Supreme Court of the Transvaal to His Majesty in Council.

I have, &c.,  
CREWE.

## III.

Appointment of Trade Commissioners in Colonies and Supply of Information respecting Colonial Legislation affecting Trade Interests

22854

No. 10.

CANADA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Copy to Board of Trade, 6 July, 1908. L.F.]

[Answered by No. 18.]

(No. 399.)

MY LORD,

Downing Street, 4 July, 1908.

WITH reference to Your Excellency's despatches, Nos. 482 and 483, of the 3rd of December, 1907,† I have the honour to request you to inform your Ministers that, in accordance with the undertaking given by Mr. Lloyd George at the Colonial Conference in 1907 in regard to the appointment of Commercial Agents in the self-governing Dominions, Mr. Richard Grigg has been appointed as His Majesty's Trade Commissioner in Canada, and will proceed to the Dominion on the 10th instant.

2. At the same time the gentlemen whose names are shown in the enclosed list‡ have been appointed as Correspondents of the Commercial Intelligence Branch of the Board of Trade in the towns specified.

3. I shall be glad if your Ministers will afford to Mr. Grigg the assistance which they were so good as to offer in your despatch, No. 482.§

\* 47306: not printed.

† See No. 51 in Dominions No. 5.

‡ Nos. 41 and 42 in Dominions No. 5.

§ No. 41 in Dominions No. 5.



4. Mr. Grigg has been instructed to report immediately on matters of importance to British commercial interests and to use his discretion as to telegraphing the provisions of any bills affecting such questions. In the case of Government measures he is instructed to ascertain in each case whether information has been, or will be, telegraphed to this Office by the Governor-General and to secure that any information telegraphed shall be obtained from a Government source.

5. In this connection I desire to express the hope that Your Excellency will, as in the past, continue to report fully by telegraph or by despatch on all commercial matters which directly or indirectly involve political issues.

I have, &c.,  
CREWE.

22854

No. 11.

CANADA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Copy to Board of Trade, 6 July, 1908. L.F.]

(Confidential.)

MY LORD,

Downing Street, 4 July, 1908.

WITH reference to my despatch, No. 399, of even date,\* I have the honour to transmit to Your Excellency, for the confidential information of your Ministers, copies of the instructions† issued by the Board of Trade to Mr. R. Grigg as His Majesty's Trade Commissioner for Canada, and to the correspondents in the Dominion of the Commercial Intelligence Branch of the Board of Trade.

I have, &c.,  
CREWE.

24594

No. 12.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 8 July, 1908.)

[Answered by No. 16.]

Board of Trade (Commercial Department),

SIR,

7, Whitehall Gardens, London, S.W., 8 July, 1908.

WITH further reference to your letter, No. 8612, of the 29th April last,‡ and to the Board's reply of the 23rd June,§ respecting the appointment of Trade Commissioners in the self-governing Colonies, I am directed by the Board of Trade to state, for Lord Crewe's information, that the President of the Board of Trade has appointed Mr. C. Hamilton Wickes, Mr. G. H. F. Rolleston, and Mr. R. Sothorn Holland to be His Majesty's Commissioners in Australia, New Zealand, and South Africa, respectively.

I am accordingly to request that you will be good enough to move Lord Crewe to bring these appointments to the notice of the respective Governments in accordance with the promise which his Lordship was good enough to make in the last paragraph of the letter from your Department of the 29th April.‡

I am to enclose herewith, for his Lordship's information, 12 copies of the instructions|| which have been issued to His Majesty's Trade Commissioners in Australia, New Zealand, and South Africa, together with copies of a revised Memorandum of Instructions|| to the local correspondents of the Board in those Colonies embodying such alterations as it has seemed necessary to make in view of the appointment of the Trade Commissioners.

I am to add, with reference to the first paragraph of your letter, Canada, No. 399,† that it has now been arranged that Mr. Grigg will not leave for Canada until some date towards the end of this month.

I have, &amp;c.,

ARTHUR WILSON FOX.

\* No. 10.

† Not printed.  
§ No. 51 in Dominions No. 5.‡ No. 49 in Dominions No. 5.  
|| Not reprinted.

Enclosure 7 in No. 12.

LIST OF CORRESPONDENTS in Australia of the Commercial Intelligence Branch of His Majesty's Board of Trade.

Victoria.—Mr. Max Hirsch, 60, Queen Street, Melbourne.

New South Wales.—Mr. J. Currie Elles, Sidney Stock Exchange Buildings, 113, Pitt Street, Sydney.

Queensland.—Mr. M. Finucan, Luchharat Street, Brisbane.

South Australia.—Mr. John Creswell, Secretary, Adelaide Chamber of Commerce, Adelaide.

West Australia.—Mr. J. F. Conigrave, Secretary, Perth Chamber of Commerce, Perth.

Tasmania.—Mr. A. H. Ashbolt, c/o Messrs. H. Jones &amp; Co., No. 9, Old Wharf, Hobart.

In addition to the above the following gentlemen also act in an honorary capacity as correspondents of the Commercial Intelligence Branch:—

Commonwealth.—The Comptroller-General of Trade and Customs, Melbourne.  
Victoria.—The Secretary to the Premier of Victoria, Melbourne.

Enclosure 8 in No. 12.

LIST OF CORRESPONDENTS in New Zealand of the Commercial Intelligence Branch of His Majesty's Board of Trade.

Wellington.—Mr. S. Carroll, Secretary, Wellington Chamber of Commerce.

Dunedin.—Mr. Peter Barr, Secretary, Dunedin Chamber of Commerce.

Auckland.—Mr. A. J. Denniston, Secretary, Auckland Chamber of Commerce.

In addition to the above the Secretary for Industries and Commerce, Wellington, also acts in an honorary capacity as correspondent of the Commercial Intelligence Branch of the Board of Trade.

Enclosure 9 in No. 12.

LIST OF CORRESPONDENTS in South Africa of the Commercial Intelligence Branch of His Majesty's Board of Trade.

Cape Colony.—Mr. E. J. Cattell, Secretary, Cape Town Chamber of Commerce, Cape Town; Mr. J. S. Neave, Secretary, Port Elizabeth Chamber of Commerce, Port Elizabeth.

Natal.—Mr. A. D. C. Agnew, Custom House, Durban.

Transvaal.—Mr. Charles A. C. Tremeer, D.S.O., Johannesburg.

In addition to the above the following gentlemen also act in an honorary capacity as correspondents of the Commercial Intelligence Branch:—

Natal.—The Collector of Customs, Durban.

Transvaal.—Mr. J. W. Honey, Director of Customs, Johannesburg.

Owing to the death of Mr. J. H. Meiring, Collector of Customs at Bloemfontein, the Board of Trade have at present no correspondent in the Orange River Colony.

The Board of Trade are, however, in communication with the Government of the Orange River Colony through the Colonial Office respecting the nomination of Mr. Meiring's successor.

24594

No. 13.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL AND GOVERNORS.

(Sent 7.15 p.m., 10 July, 1908.)

TELEGRAM.

(1. Australia.)

(4. Natal. No. 1.)

(2. New Zealand.)

(5. Transvaal. No. 2.)

(3. Cape of Good Hope. No. 1.)

(6. Orange River Colony. No. 1.)

Please inform your Ministers Board of Trade have appointed [1. Mr. C. Hamilton Wickes], [2. Mr. G. H. F. Rolleston], [3 to 6. Mr. R. Sothorn Holland] as Trade Commissioner in [1. Australia], [2. New Zealand], [3 to 6. South Africa].



Date of departure of officers named will be notified later. Despatch\* follows by mail.—CREWE.

24594

No. 14.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL AND GOVERNORS.

- |                            |                                   |
|----------------------------|-----------------------------------|
| (1. Australia. No. 232.)   | (4. Natal. No. 118.)              |
| (2. New Zealand. No. 123.) | (5. Transvaal. No. 188.)          |
| (3. Cape. No. 132.)        | (6. Orange River Colony. No. 81.) |

Downing Street,

MY LORD,

SIR,

[To all except (2).—With reference to [Your Excellency's] [your] despatch, No. [1. 264, of the 30th of October, 1907,†] [3. 329, of the 4th of November, 1907,‡] [4. 9, of the 13th of January,§] [5. 437, of the 28th of October, 1907,||] [6. 9, of the 20th of January,¶]] [To (2) only.—With reference to my predecessor's despatch, Miscellaneous, of the 4th of September, 1907,\*\*] I have the honour to request you to inform your Ministers that in accordance with the proposal made by Mr. Lloyd George at the Colonial Conference in 1907 in regard to the appointment of Commercial Agents in the self-governing Dominions [1. Mr. C. Hamilton Wickes], [2. Mr. G. H. F. Rolleston], [3. Mr. R. Sothorn Holland] has been appointed His Majesty's Trade Commissioner in [1. Australia], [2. New Zealand], [3 to 6. South Africa], and will proceed shortly to the [1. Commonwealth], [2. Dominion], [3 to 6. South Africa] to take up his post.

2. I also enclose a list†† of the gentlemen who have been appointed as correspondents of the Commercial Intelligence Branch of the Board of Trade in [1. Australia], [2. New Zealand], [3 to 6. South Africa].

3. I shall be glad if your Ministers will afford to the Commissioner any assistance in their power.

4. The Commissioner has been instructed to report immediately on matters of importance to British commercial interests, and to use his discretion as to telegraphing the provisions of any bills affecting them. In the case of Government measures he is instructed to ascertain in each case whether the information has been or will be telegraphed by the [1. Governor-General], [2 to 6. Governor], and to secure that any information telegraphed by him shall be from a Government source.

5. In this connection I desire to express the hope that [Your Excellency] [you] will, as in the past, continue to report fully by telegraph or by despatch on all commercial matters which directly or indirectly involve political issues.

I have, &c.,  
CREWE.

24594

No. 15.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL AND GOVERNORS.

- |                                   |   |
|-----------------------------------|---|
| (1. Australia. Confidential (2).) | (4. Natal. Confidential.)               |
| (2. New Zealand. Confidential.)   | (5. Transvaal. Confidential.)           |
| (3. Cape. Confidential.)          | (6. Orange River Colony. Confidential.) |

Downing Street,

MY LORD,

SIR,

WITH reference to my despatch,† No. [1. 232], [2. 123], [3. 132], [4. 118], [5. 188], [6. 81], of even date, I have the honour to transmit to Your Excellency, you, for the confidential information of your Ministers, copies of the instructions,§§

\* No. 14. † No. 38 in Dominions No. 5. ‡ No. 37 in Dominions No. 5.  
§ No. 46 in Dominions No. 5. || No. 36 in Dominions No. 5. ¶ No. 47 in Dominions No. 5.  
\*\* No. 34 in Dominions No. 5. †† Enclosures 7, 8 and 9 in No. 12. ‡‡ No. 14. §§ Not printed.

issued by the Board of Trade to Mr. [1. C. Hamilton Wickes], [2. G. H. F. Rolleston], [3 to 6. R. Sothorn Holland], as His Majesty's Trade Commissioner in [1. Australia], [2. New Zealand], [3 to 6. South Africa], together with copies of the instructions\* to the local correspondents of the Commercial Intelligence Branch of the Board of Trade referred to in paragraph 13 of the Commissioner's Instructions.

I have, &c.,  
CREWE.

24594

No. 16.

COLONIAL OFFICE to BOARD OF TRADE.

[Answered by 27668 : not printed.]

SIR,

Downing Street, 13 July, 1908.

WITH reference to your letter of the 8th of July,† I am directed by the Earl of Crewe to transmit to you, for the information of the Board of Trade, copies of the telegrams and despatches‡ informing the self-governing Dominions concerned of the appointment of His Majesty's Trade Commissioners in Australia, New Zealand, and South Africa.

2. I am to request that the dates of departure of the Commissioners may be notified to this Department as soon as they are fixed.

I am, &c.,  
C. P. LUCAS.

28022

No. 17.

NEWFOUNDLAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 1 August, 1908.)

[Answered by No. 23.]

(No. 95.)

MY LORD,

Government House, St. John's, 23 July, 1908.

WITH reference to your despatch, No. 95, of the 25th June,§ I have the honour to enclose, for your Lordship's information, copy of a letter I have received from my Prime Minister, from which it will be seen that Mr. Le Messurier will be pleased to accept the terms offered by the Board of Trade as their correspondent for Newfoundland.

I have, &c.,  
WM. MACGREGOR.

Enclosure in No. 17.

Colonial Secretary's Office, St. John's,  
Newfoundland, 22 July, 1908.

SIR,

WITH further reference to Your Excellency's schedule, dated 7th instant, covering, amongst others, a despatch in relation to the appointment of Mr. H. W. Le Messurier as correspondent of the Board of Trade, I have the honour to intimate that I am now in receipt of a letter from the Minister of Finance and Customs stating that Mr. Le Messurier will be pleased to accept the terms offered by the said Board.

I have, &c.,  
R. BOND,  
Colonial Secretary.

His Excellency

Sir Wm. MacGregor, G.C.M.G., C.B.,  
Governor.

\* Not printed. † No. 12. ‡ Nos. 13, 14, and 15. § No. 52 in Dominions No. 5.



28044

No. 18.

CANADA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 1 August, 1908.)

[Copy to Board of Trade, 13 August, 1908. L.F.]

(No. 322.)

MY LORD,

The Citadel, Quebec, P.Q., Canada, 23 July, 1908.

WITH reference to your Lordship's despatch, No. 399, of the 4th instant,\* announcing the appointment of Mr. Richard Grigg as His Majesty's Trade Commissioner for Canada, I have the honour to enclose copy of an approved minute of the Privy Council expressing the conviction of my responsible advisers that the appointment will improve the trade relations between the United Kingdom and Canada and intimating their readiness to furnish Mr. Grigg with such commercial information as he may desire.

I have, &amp;c.,

GREY.

Enclosure in No. 18.

(P.C. 2232 M.)

CERTIFIED COPY OF A REPORT of the Committee of the Privy Council, approved by His Excellency the Governor-General on the 15th July, 1908.

The Committee of the Privy Council have had under consideration a cablegram, dated 30th June, 1908, from the Right Honourable the Secretary of State for the Colonies stating that the Board of Trade has appointed Mr. Richard Grigg as Trade Commissioner in Canada.

The Minister of Trade and Commerce, to whom the said despatch was referred, observes that the appointment of Mr. Richard Grigg in Canada will undoubtedly serve to increase and strengthen the trade between the Dominion of Canada and the United Kingdom, and it will always be a pleasure to the Department of Trade and Commerce to furnish Mr. Grigg with such commercial information as he may desire.

The Committee advise that Your Excellency may be pleased to so inform the Right Honourable the Secretary of State for the Colonies.

All of which is respectfully submitted.

RODOLPHE BOUDREAU,

Clerk of the Privy Council.

28022

No. 19.

NEWFOUNDLAND.

COLONIAL OFFICE to BOARD OF TRADE.

[Answered by No. 22.]

SIR,

Downing Street, 14 August, 1908.

WITH reference to your letter of the 18th of June last,† I am directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Board of Trade, a copy of a despatch‡ from the Governor of Newfoundland reporting Mr. Le Messurier's acceptance of the terms offered by the Board as their correspondent in Newfoundland.

The Secretary of State would be glad to be allowed an opportunity of seeing the instructions proposed to be issued to Mr. Le Messurier before they are finally settled.

I am, &amp;c.,

C. P. LUCAS.

\* No. 10.

† No. 50 in Dominions No. 5.

‡ No. 17.

30917

No. 20.

NEW ZEALAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 24 August, 1908.)

[Copy to Board of Trade, 3 September, 1908. L.F.]

[Answered by No. 21.]

(No. 53.)

MY LORD,

Government House, Wellington, 11 July, 1908.

I HAVE the honour to acknowledge your predecessor's despatch, Miscellaneous, of the 4th September, 1907,\* on the subject of the desirability of transmitting early information relative to new colonial legislation, for the information of the Board of Trade.

2. My Ministers inform me, in reply, that a telegraphic summary of such Bills as Lord Elgin referred to will be sent home either when they are introduced to Parliament or when they have passed both Houses of the Legislature, provided that the Bills are of a very important character.

3. When the summary of such a Bill is telegraphed on its being introduced to Parliament, your Lordship will be informed by cable as soon as the Bill has been passed.

I have, &amp;c.,

PLUNKET,

Governor.

30917

No. 21.

NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR.

[Copy to Board of Trade, 3 September, 1908. L.F.]

(No. 148.)

MY LORD,

Downing Street, 2 September, 1908.

I HAVE the honour to acknowledge the receipt of your despatch, No. 53, of the 11th of July,† on the subject of the transmission of early information with regard to new colonial legislation for the use of the Board of Trade.

Your Lordship will now have learned from my despatch, No. 123, of the 10th of July,‡ that the Board of Trade have appointed a Trade Commissioner for New Zealand, whose duty it will be to ensure the prompt communication to the Board of matters affecting British commercial interests. I request that you will be good enough to refer your Ministers to the terms of that despatch.

I have, &amp;c.,

CREWE.

45294

No. 22.

NEWFOUNDLAND.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 10 December, 1908.)

[Answered by L.F. transmitting copies of Nos. 23 and 24.]

Board of Trade (Commercial Department),

7, Whitehall Gardens, London, S.W.,

9 December, 1908.

SIR,

ADVERTING to your letter, No. 32841/1908, of the 30th September,§ on the subject of the appointment of Mr. Le Messurier as Correspondent in Newfoundland to the Commercial Intelligence Branch, I am directed by the Board of Trade

\* No. 34 in Dominions No. 5.

† No. 20.

‡ No. 14.

§ Not printed.



to transmit, herewith, at your request and for communication to the Newfoundland Government, copies of the Instructions\* which are being sent by the Board to Mr. Le Messurier.

With reference to telegraphic information as to important legislative proposals, I am to state that it appears to the Board desirable that, as Lord Crewe suggests, Mr. Le Messurier should not be empowered to send such information, but that this should be done by the Colonial Government. The Board will be willing to refund the expenditure so incurred by the Government of Newfoundland; but they request that, should Lord Crewe see no objection, the Newfoundland Government may be informed that the Board desire telegraphic information only in regard to matters of a really urgent character, and that it would be a convenience if such accounts as they may have against the Board could be rendered half-yearly.

I have, &c.,  
ARTHUR WILSON FOX.

45294

No. 23.

NEWFOUNDLAND.

THE SECRETARY OF STATE to THE GOVERNOR.

[Copy to Board of Trade, 18 December, 1908. L.F.]

(Confidential.)

SIR,

Downing Street, 16 December, 1908.

WITH reference to your despatch, No. 95, of the 23rd of July,† I have the honour to transmit to you, for the information of your Ministers, the accompanying copies of the Instructions\* which have been issued to Mr. Le Messurier, the Correspondent in Newfoundland of the Commercial Intelligence Branch of the Board of Trade.

I have, &c.,  
CREWE.

45294

No. 24.

NEWFOUNDLAND.

THE SECRETARY OF STATE to THE GOVERNOR.

[Copy to Board of Trade, 18 December, 1908. L.F.]

(No. 185.)

SIR,

Downing Street, 16 December, 1908.

WITH reference to your despatch, No. 150, of 29th November, 1907,‡ reporting your Ministers' willingness to furnish telegraphic information regarding important legislative proposals affecting the trade interests of the United Kingdom, I have the honour to inform you that such information is required by telegraph only in case of matters of a really important and urgent character.

2. The Board of Trade are prepared to refund the expenditure incurred by the Government of Newfoundland in connection with telegrams of this character, and it would be a convenience if accounts of such expenditure were rendered half-yearly.

I have, &c.,  
CREWE.

\* Not reprinted.

† No. 17.

‡ No. 40 in Dominion No. 5.

## IV.

## Resolution X.

(a) Coastwise Trade in the Colonies.

(b) Trade between the United States and its Colonies.

30153

No. 25.

CANADA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 18 August, 1908.)

[Answered by No. 28.]

(No. 339.)

MY LORD,

Government House, Ottawa, 4 August, 1908.

I HAVE the honour to forward, herewith, copy of an approved minute of the Privy Council, submitting a certified copy of an Act passed at the recent Session of the Canadian Parliament intituled "An Act to amend the Canada Shipping Act," the object of which is to enable the Governor-General in Council to admit foreign vessels to the privileges of the Canadian coasting trade in certain contingencies.

Your Lordship will observe that the Act is only to come into operation on being proclaimed, and that my responsible advisers are anxious that His Majesty's pleasure in regard to it may be signified at an early date.

I have, &c.,  
GREY.

Enclosure in No. 25.

CERTIFIED COPY of a Report of the Committee of the Privy Council, approved by His Excellency the Governor-General on the 3rd August, 1908.

The Committee of the Privy Council, on the recommendation of the Minister of Customs, advise that a certified copy of an Act passed at the last Session of the Parliament of Canada entitled "An Act to Amend the Canada Shipping Act," which contains a provision that the Act shall not come into force until His Majesty's pleasure thereon has been signified, be transmitted to His Majesty's Principal Secretary of State for the Colonies, in order to obtain the decision of His Majesty's Government in respect thereof, in the hope that an early decision will be rendered.

All which is respectfully submitted for approval.

RODOLPHE BOUDREAU,  
Clerk of the Privy Council.

## CHAPTER 64.

AN ACT to Amend the Canada Shipping Act, assented to Monday, 20th July, 1908.

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section 958 of the Canada Shipping Act, Chapter 113 of the Revised Statutes, 1906, is repealed, and the following is substituted therefor:—

958. The Governor in Council may, from time to time:—

"(a) By Order in Council declare that the foregoing provisions of this part shall not, while such Order in Council is in force, apply, either throughout Canada or in any specified waters of Canada, to the ships or vessels, or to any specified, ascertained, or ascertainable class or number of the ships or vessels of any foreign country in which British ships are admitted to the coasting trade of such country, and to carry goods or passengers from one port or place to another in such country; and

R.S., c. 113  
new s. 958Reciprocity in  
coasting  
trade.



"(b) Revoke or vary such Order in Council."

2. This Act shall not come into force until His Majesty's pleasure thereon has been signified by publication in the "Canada Gazette."

30153

No. 26.

CANADA.

COLONIAL OFFICE to BOARD OF TRADE.

[Copy to Foreign Office, 9 October, 1908.]

[Answered by No. 27.]

SIR,

I AM directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Board of Trade, the accompanying copy of a despatch\* from the Governor-General of Canada, submitting for His Majesty's approval a copy of an Act passed by the Canadian Parliament, entitled "An Act to Amend the Canada Shipping Act."

2. It will be seen that the object of the Act is to enable the Governor-General in Council to admit foreign vessels in certain contingencies to the privileges of the Canadian coasting trade. The Order in Council has, it is understood, been passed to obviate the inconvenience which would have been caused by the exclusion of all foreign vessels from the coasting trade of Canada under the Order in Council a copy of which was enclosed in the letter from this Office of the 21st of February, 1908.†

3. It will be seen that, in accordance with Section 736 of the Merchant Shipping Act of 1894, the Act contains a suspending clause, delaying the operation of the Act until His Majesty's pleasure thereon has been signified by publication in the "Canada Gazette," and I am to request that the Board of Trade will inform the Secretary of State at their early convenience whether there is, in their opinion, any objection to His Majesty's assent being given to the Act.

I am, &amp;c.,

C. P. LUCAS.

34677

No. 27.

CANADA.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 22 September, 1908.)

[Answered by No. 29.]

Board of Trade (Commercial Department), 7, Whitehall

Gardens, London, S.W., 21 September, 1908.

SIR,

IN reply to your letter of the 21st August (No. 30153),‡ with its enclosures, I am directed by the Board of Trade to state, for the information of Lord Crewe, that there is no objection in their opinion to His Majesty's Assent being given to the Act passed by the Canadian Parliament, entitled "An Act to Amend the Canada Shipping Act."

I am, however, to observe that should any country be admitted under the Act to participate in the coasting trade of the Dominion, certain other countries—a list of which could be furnished by the Board if desired—would be in a position to claim the same privilege in virtue of the most-favoured-nation rights affecting navigation, to which they are entitled in Canada under treaties which are still in existence. I am to suggest that if Lord Crewe sees no objection an intimation to this effect might be conveyed to the Canadian Government.

I have, &amp;c.,

T. W. P. BLOMEFIELD.

\* No. 25.

† No. 56 in Dominions No. 5.

‡ No. 26.

34677

No. 28.

CANADA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Copy to Foreign Office, 9 October, 1908.]

(No. 587.)

MY LORD,

Downing Street, 25 September, 1908.

WITH reference to my despatch, No. 519, of the 26th of August,\* I have the honour to request that Your Excellency will inform your Ministers that His Majesty will not be advised to exercise his power of disallowance with respect to Act 7 and 8 Edward VII., Chapter 64, of the Parliament of Canada, entitled "An Act to Amend the Canada Shipping Act, 1908."

2. At the same time, I shall be glad if you will remind your Ministers that should any country be admitted under the Act to participation in the coasting trade of the Dominion, certain other countries would be in a position to claim the same privilege in virtue of the most-favoured-nation rights affecting navigation, to which they are entitled in Canada under treaties which are still in existence. I have requested the Board of Trade to prepare a list of such treaties, which will be forwarded for the information of your Ministers at an early date.

I have, &amp;c.,

CREWE.

34677

No. 29.

CANADA.

COLONIAL OFFICE to BOARD OF TRADE.

[Answered by No. 31.]

SIR,

Downing Street, 26 September, 1908.

I AM directed by the Earl of Crewe to transmit to you, for the information of the Board of Trade, with reference to your letter of the 21st of September,† copy of a despatch‡ which he has addressed to the Governor-General of Canada, signifying His Majesty's assent to the Act 7 and 8, Edward VII., Chapter 64, of the Parliament of Canada, entitled "An Act to Amend the Canada Shipping Act."

2. Lord Crewe will be glad if the Board of Trade will be so good as to furnish him at an early date, with a list of the countries which are entitled to most-favoured-nation treatment in matters of navigation in Canada.

I am, &amp;c.,

C. P. LUCAS.

37826

No. 30.

CANADA.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 17 October, 1908.)

[Answered by No. 43.]

The Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary for the Colonies, and is directed by the Secretary of State for Foreign Affairs to transmit the accompanying copy of a note from the Danish Minister respecting the new Canadian Act reserving coasting trade in Canadian waters for British ships.

The Secretary of State would be glad to be advised what answer should be returned to M. de Bille.

Foreign Office,  
16 October, 1908.

\* L.F. (an acknowledgment).

† No. 27.

‡ No. 28.



Enclosure in No. 30.

SIR,

Danish Legation, London, 7 October, 1908.

My Government has been informed that a Canadian Order in Council of January 17th this year reserves the coasting trade in Canadian waters for British ships thus repealing indirectly an earlier Order, of January 1st, 1877, under which Danish vessels were admitted to the Canadian coasting trade. At the same time my Government has received a copy of "An Act to amend the Canadian Shipping Act" passed by the House of Commons at Ottawa this session which provides, *inter alia*, that the Governor in Council may from time to time by Order in Council declare ships of any foreign country in which British ships are admitted to the coasting trade to be exempted from the prohibition enacted by the Order in Council of January last.

Inasmuch as British ships over 30 tons register are admitted to the coasting trade in Denmark I have been directed to ascertain whether it is to be assumed that, when the said Amendment Act has come into force, the Order in Council prohibiting foreign vessels from participating in the coasting trade will be modified by the issue of a new one granting the privilege to the countries which have hitherto possessed it under reciprocity.

I shall be much obliged if you would enable me to make this matter clear to my Government, on whose behalf I am instructed to express their expectation that Danish ships will continue after January 1st, 1909, to be admitted to the coasting trade in Canada.

Sir Edward Grey, Bart., M.P.,  
&c., &c., &c.

I have, &c.,  
F. BILLE.

38616

No. 31.

CANADA.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 22 October, 1908.)

[Answered by No. 38.]

Board of Trade (Commercial Department),

7, Whitehall Gardens, London, S.W., 21 October, 1908.

SIR,

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 26th September (No. 34677)\* transmitting copy of a despatch addressed by Lord Crewe to the Governor-General of Canada on the subject of the "Act to amend the Canada Shipping Act," and asking to be furnished with a list of the countries entitled to most-favoured-nation treatment in Canada in respect of coasting trade.

In reply I am to state, for the information of Lord Crewe, that, after a careful examination of the treaties and conventions at present in operation, the Board are of opinion that the following countries are entitled to most-favoured-nation treatment in Canada in matters of navigation, the coasting trade being either specifically included or not specifically excepted:—

Austria-Hungary.  
The Argentine Republic.  
Japan.  
Liberia.  
Venezuela.

As regards Liberia, Lord Crewe will recollect that, by the Agreement signed on the 23rd July, 1908, the Dominion of Canada is empowered to withdraw from the Anglo-Liberian Treaty of 1848 on giving twelve months' notice to that effect.

I am to add that the Board are in some doubt whether Article IX. of the 1826 Treaty with Sweden and Norway might not also be held to apply in this connexion.

I have, &c.,  
GEO. J. STANLEY.

\* No. 29.

37826

No. 32.

CANADA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Copy to Foreign Office, 23 October, 1908. L.F.]

[Answered by No. 41.]

(No. 639.)

MY LORD,

Downing Street, 21 October, 1908.

WITH reference to my despatch, No. 587, of the 25th of September,\* I have the honour to transmit to Your Excellency, to be laid before your Ministers, the accompanying copy of a note† from the Danish Minister, on the subject of the Canadian Order in Council reserving coasting trade in Canadian waters to British vessels.

2. I should be glad to learn what reply your Ministers desire to be returned to the request of the Government of Denmark.

I have, &c.,  
CREWE.

38616

No. 33.

CANADA.

COLONIAL OFFICE to FOREIGN OFFICE.

[Answered by No. 35.]

SIR,

Downing Street, 29 October, 1908.

WITH reference to the letters from this Office of the 9th‡ and 23rd of October,§ I am directed by the Earl of Crewe to transmit to you the accompanying copy of a letter|| from the Board of Trade on the subject of the countries entitled to most-favoured-nation treatment in Canada in respect of the coasting trade.

2. I am also to enclose draft of a despatch to the Governor-General of Canada, which Lord Crewe proposes, with the concurrence of Sir Edward Grey, to address to His Excellency.

3. I am to request that an early reply may be sent to this letter.

I am, &c.,  
C. P. LUCAS.

Enclosure 2 in No. 33.

(Draft.)

MY LORD,

Downing Street, October, 1908.

WITH reference to my despatches, No. 587, of the 25th September, and No. 639, of the 21st of October, I have the honour to request Your Excellency to inform your Ministers that after a careful examination of the treaties and conventions at present in operation, the Board of Trade are of opinion that the following countries are entitled to most-favoured-nation treatment in Canada in matters of navigation, the coasting trade being either specifically included, or not specifically excepted:—

Austria-Hungary.  
The Argentine Republic.  
Japan.  
Liberia.  
Venezuela.

2. As regards Liberia, your Ministers will recollect that under the agreement of the 23rd of July, 1908, a copy of which was enclosed in my despatch, No. 556, of the 11th of September, the Dominion of Canada is empowered to withdraw from the Anglo-Liberian Treaty of 1848 on giving 12 months' notice to that effect.

\* No. 28. † Enclosure in No. 30. ‡ Not printed, transmitting copies of Nos. 26 and 28.  
§ L.F. transmitting copy of No. 32. || No. 31.



3. I have to add that the Board of Trade are in some doubt whether Article IX. of the Treaty of 1826 with Sweden and Norway, which is regarded as still applicable to the latter country, may not also be held to apply in this connection.

I have, &c.,

30153

No. 34.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL AND GOVERNORS.

- |                                    |                                      |
|------------------------------------|--------------------------------------|
| ((1.) Australia. No. 398.)         | ((5.) Natal. No. 217.)               |
| ((2.) New Zealand. No. 195.)       | ((6.) Transvaal. No. 395.)           |
| ((3.) Newfoundland. No. 173.)      | ((7.) Orange River Colony. No. 152.) |
| ((4.) Cape of Good Hope. No. 261.) |                                      |

MY LORD,

SIR,

Downing Street, 20 November, 1908.

WITH reference to my predecessor's despatch [(1) No. 75, (2) No. 35, (3) No. 29, (4) No. 39, (5) No. 29 of the 5th of March last\*, [(6) No. 60, (7) No. 29, of the 6th March last†], regarding the coasting trade of Canada, I have the honour to transmit to Your Excellency, for the information of your Ministers, the accompanying copy of a despatch‡ from the Governor-General of Canada transmitting a copy of an Act to amend the Canadian Shipping Act, which has been passed in order to enable the Dominion Government to admit foreign vessels to the privileges of the Canadian coasting trade in certain contingencies, together with a copy of a despatch§ which I have addressed to the Governor-General, informing his Excellency that His Majesty will not be advised to disallow the Act.

I have, &c.,  
CREWE.

43178

No. 35.

CANADA.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 26 November, 1908.)

[Answered by No. 37.]

SIR,

Foreign Office, 25 November, 1908.

WITH reference to your letter of the 29th ultimo, No. 38616,|| enclosing draft of a despatch to the Governor-General of Canada on the subject of the countries entitled to most-favoured-nation treatment in the Dominion in respect of the coasting trade, I am directed by Secretary Sir E. Grey to state that, in his opinion, "Coasting Trade" is not included in general stipulations regarding commerce and navigation, but that it must be actually specified in the treaty, or the wording of the stipulations must be so clear and definite that the inclusion of the trade is obviously intended.

When a question was raised of the admission of Spain to the coasting trade of Canada, it was laid down that if the Canadian Government granted to Spanish vessels the right to participate in the coasting trade on condition of reciprocity they would not be obliged to extend it to other countries in virtue of a most-favoured-nation stipulation in general terms.

It would appear, therefore, that the only countries entitled to most-favoured-nation treatment in Canada as regards the coasting trade are Austria and Japan, as the treaties with these countries include specific stipulations to that effect, and I am to suggest that the proposed draft to the Governor-General of Canada should be modified accordingly.

I am, &c.,  
W. LANGLEY.

\* No. 57 in Dominions No. 5. † No. 58 in Dominions No. 5. ‡ No. 25. § No. 28. || No. 33.

43178

No. 36.

CANADA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(No. 738.)

MY LORD,

Downing Street, 3 December, 1908.

WITH reference to my despatches, No. 587, of the 25th of September, and No. 639, of the 21st of October,\* I have the honour to request Your Excellency to inform your Ministers that the Secretary of State for Foreign Affairs is of opinion that the only countries entitled to most-favoured-nation treatment in Canada in the matter of the coasting trade are Austria-Hungary and Japan.

2. This opinion is founded on the basis that the coasting trade is not included in general stipulations regarding commerce and navigation, but that it must be actually specified in a treaty, or the wording of the stipulations must be so clear and definite that the inclusion of the trade is obviously intended.

3. The only treaties binding on Canada which include specific stipulations as regards the coasting trade, are those with Austria-Hungary and Japan.

I have, &c.,  
CREWE.

43178

No. 37.

CANADA.

COLONIAL OFFICE to FOREIGN OFFICE.

SIR,

Downing Street, 4 December, 1908.

I AM directed by the Earl of Crewe to acknowledge the receipt of your letter of the 25th of November,† on the subject of the countries entitled to most-favoured-nation treatment in Canada in respect of the coasting trade.

2. In reply, I am to enclose, for the information of Secretary Sir Edward Grey, copy of a despatch‡ which has been addressed to the Governor-General of the Dominion, intimating that only Japan and Austria-Hungary are entitled to most-favoured-nation treatment in Canada in respect of the coasting trade.

I am, &c.,  
C. P. LUCAS.

43178

No. 38.

CANADA.

COLONIAL OFFICE to BOARD OF TRADE.

[Answered by No. 40.]

SIR,

Downing Street, 4 December, 1908.

WITH reference to your letter of the 21st of October,§ I am directed by the Earl of Crewe to transmit to you, to be laid before the Board of Trade, the accompanying copy of correspondence|| with the Foreign Office, and of a despatch‡ to the Governor-General of Canada, on the subject of the countries entitled to most-favoured-nation treatment in Canada in respect of the coasting trade.

I am, &c.,  
C. P. LUCAS.

\* Nos. 28 and 32.  
§ No. 31.

† No. 35.

‡ No. 36.  
|| Nos. 35 and 37.



No. 39.

CANADA.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 6 January, 1909.)

[Copy enclosure to Governor-General, January 7, 1909. L.F.]

The Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary of State for the Colonies, and, by direction of the Secretary of State, transmits herewith copy of the under-mentioned paper. Perhaps an early reply on the subject can be obtained from the Canadian Government.

Danish Minister, January 1st. Canadian Coasting Trade.

Foreign Office,

5 January, 1909.

REFERENCE TO PREVIOUS LETTER.

Foreign Office of October 16th, 1908.\*

Enclosure in No. 39.

Danish Legation, London,

January 1st, 1909.

Mr. SECRETARY OF STATE,

ON October 7th, 1908, Monsieur de Bille had the honour to address a note to you with regard to the coasting trade of Canada and the admission of Danish vessels to participation in this trade.

My Government has now been informed that Norwegian steamships of more than 1,500 tons gross register have been admitted to the coasting trade between the provinces of Quebec-Nova Scotia and *vice versa* until January 1st, 1912, and I have consequently been directed to enquire whether this privilege has also been extended to Danish vessels.

I venture to submit this question to you with the respectful request that you will be good enough to forward the said information to me, and, at the same time, I take the liberty to renew the expectation expressed by Monsieur de Bille that Danish vessels will continue to be admitted to the coasting trade in Canada as heretofore, and to call your attention to the urgency of this matter, owing to the fact that the Canadian Order in Council of January 17th, 1908, enters into force with this day, January 1st, 1909.

I have, &c.,  
C. BRUN.

The Right Honourable

Sir E. Grey, Bart., M.P.,

&c., &c., &c.

4020

No. 40.

CANADA.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 4 February, 1909.)

Board of Trade (Commercial Department), Gwydyr House,

Whitehall, London, S.W., 22 January, 1909.

SIR,

WITH reference to your letter, No. 43178 of the 4th December, 1908,† I am directed by the Board of Trade to transmit to you, for the information of Lord Crewe, the accompanying copy of a letter, which they have caused to be addressed

\* No. 30.

† No. 38.

to the Foreign Office, on the subject of the countries entitled to most-favoured-nation treatment in Canada in respect of the coasting trade.

I have, &c.,

H. LLEWELLYN SMITH.

Enclosure in No. 40.

Board of Trade (Commercial Department), Gwydyr House,

Whitehall, London, S.W., 22 January, 1909.

SIR,

I AM directed by the Board of Trade to state that they have received from the Colonial Office a copy of your letter of the 25th November, 1908, to that Department on the subject of the countries entitled to most-favoured-nation treatment in Canada in respect of the coasting trade.

Sir E. Grey will doubtless be aware that the Board, when consulted on this subject by the Colonial Office, expressed the opinion that the countries so entitled, by Treaties or Conventions with the United Kingdom at present in force in which the coasting trade is specifically included or from which it is not specifically excluded, are the Argentine Republic, Austria-Hungary, Japan, Liberia, and Venezuela; Canada having in the case of Liberia the power (under the Agreement of the 23rd July, 1908) to withdraw from the Treaty of 1848 on giving twelve months' notice to that effect. The Board now understand that Sir E. Grey dissents from this view as regards the Argentine Republic, Liberia, and Venezuela, and lays down as a general principle of interpretation that "coasting trade" is not to be deemed to be included in general treaty stipulations regarding commerce and navigation, but must be actually specified in the treaty, or the wording of the stipulations must be so clear and definite that the inclusion of the coasting trade is obviously intended.

The Board, as at present advised, feel some difficulty in agreeing to this interpretation, and though the matter may possibly be of only minor importance as regards the particular case now under consideration, they feel that the principle of interpretation of treaties laid down in the Foreign Office letter is one which, if carried to its logical conclusion, might imperil important British interests. I am accordingly to ask you to be good enough to put before Sir E. Grey the following considerations:—

(1) The treaties between the United Kingdom and the Argentine Republic and Venezuela respectively are of the same year, 1825, and the same form of words is employed in each. "The inhabitants" (in the Argentine Treaty) and "the subjects and citizens" (in the Venezuelan Treaty) "of the two countries respectively shall have liberty freely and securely to come with their ships and cargoes to all such places, ports, and rivers in the territories aforesaid to which other foreigners are or may be permitted to come"; and in each case the United Kingdom engages to allow "the like liberty of commerce and navigation" in all its possessions outside Europe "to the full extent in which the same is permitted at present or shall be permitted hereafter to any other nation."

The treaty nearest in date to the treaties with the Argentine Republic and Venezuela, and still in force, is that with Bolivia (1840). The wording of the first paragraph of Article II. of that treaty is identical with that of Article II. of the Argentine and Venezuelan Treaties, but in the third paragraph (to which there is no parallel in the earlier treaties) the coasting trade is expressly excluded from the scope of the treaty. The Liberian Treaty of 1848, again, does not include any reservation of the coasting trade, and stipulates that "any favour, privilege or immunity whatever in matters of commerce and navigation which either contracting party has actually granted or may hereafter grant to the subjects or citizens of any other State shall be extended to the subjects or citizens of the other contracting party."

In view, therefore, of the fact that the coasting trade was not expressly excluded from the Argentine and Venezuelan Treaties of 1825, was so excluded from the Bolivian Treaty of 1840, and, again, was not so excluded from the Liberian Treaty of 1848, it appears possible to contend that the exclusion from the Bolivian Treaty represents a deliberate policy which was not applied, and was not intended to apply, in the other cases. The fact that the coasting trade of the United Kingdom



was in fact reserved at the date of these treaties appears not to affect this contention, since the Articles quoted above provided for the extension to the contracting parties of any favours or privileges subsequently granted by either of them to a third Power.

(2) On the general question of principle it appears to the Board that it is to the interest of the United Kingdom to give a broad interpretation to treaty stipulations according national or most-favoured-nation treatment as regards commerce and shipping, and thus to secure all the advantages which can be derived from the spirit, as well as from the letter, of the commercial treaties in force. It would, therefore, be detrimental to national interests if by an unduly narrow interpretation we were voluntarily to give up any of the advantages to which the United Kingdom can reasonably be held to have a claim in virtue of such treaties, and in this connexion the Board would point out that the proposed interpretation of the treaties would carry with it the consequence that British shipping has no treaty claim, even to most-favoured-nation treatment, in the coasting trade of the Argentine Republic and Venezuela.

In view of these considerations, I am to suggest that Sir E. Grey may possibly see his way to give further consideration to the matter.

I have, &c.,

H. LLEWELLYN SMITH.

The Under Secretary of State,  
Foreign Office.

2808

No. 41.

CANADA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 25 January, 1909.)

[Answered by No. 42.]

(No. 14.)

MY LORD,

Government House, Ottawa, 12 January, 1909.

WITH reference to your Lordship's despatch, No. 639, of the 21st October, 1908,\* asking what reply should be returned to the enquiry of the Danish Government as to the continued admission of Danish ships to the privileges of the Canadian coasting trade, I have the honour to forward copy of an approved Minute of the Privy Council, stating that it is not to be assumed that such privilege will be extended to Danish ships after the 1st January, 1909, except under the modified temporary conditions set forth in the attached copies of Orders in Council, dated the 17th and the 31st December, 1908, respectively.

I have, &c.,

GREY.

Enclosure in No. 41.

CERTIFIED COPY OF A REPORT of the Committee of the Privy Council, approved by His Excellency the Governor-General on the 6th January, 1909.

(P.C. 2457 M.)

The Committee of the Privy Council have had under consideration a despatch, dated 21st October, 1908, from the Right Honourable the Principal Secretary of State for the Colonies, transmitting copy of a note from the Danish Minister, on the subject of the Canadian Order in Council reserving coasting trade in Canadian waters to British vessels.

The Committee, on the recommendation of the Minister of Customs, to whom the despatch was referred, submit that Your Excellency may be pleased to advise the Right Honourable the Principal Secretary of State for the Colonies, for the information of the Government of Denmark, that it is not to be assumed that the privilege of the Canadian coasting trade will be extended to Danish ships after 1st

January, 1909, except under the modified temporary conditions set forth in the Canadian Orders in Council of 17th and 31st December, 1908 (Memorandum 1510B. and Memorandum 1514B.), copies of which are hereto attached.

All which is respectfully submitted for approval.

F. K. BENNETTS,

Assistant Clerk of the Privy Council.

No. 1510 B.

MEMORANDUM.

Department of Customs, Canada, Ottawa,  
17th December, 1908.

To Collectors of Customs:

Coasting Trade of Canada.

Referring to Memorandum 1452 B., of 13th January, 1908, you are advised that an Order in Council, dated the 17th December, 1908, contains the following provisions, viz.:—

At the Government House at Ottawa,

Thursday, the 17th day of December, 1908.

PRESENT:

His Excellency the Governor-General in Council.

Whereas by an Order in Council, dated 13th January, 1908, it is provided that certain Orders in Council by which ships and vessels of certain foreign countries had been admitted to the coasting trade of Canada are repealed on, from and after the 1st January, 1909;

And whereas applications have been made to allow the ships and vessels of certain foreign countries to participate in such coasting trade to a limited extent and for a temporary period, pending the acquisition of suitable British ships, to which class of vessels under the provisions of the Order the coasting trade would on and after the said date be confined;

Therefore His Excellency the Governor-General in Council is pleased to Order that the said Order in Council of the 13th January, 1908, shall be and the same is hereby revoked and the following provisions substituted for the provisions therein contained:—

All Orders in Council admitting ships or vessels of any foreign country to the coasting trade of Canada shall be and the same are hereby revoked on, from and after the 1st January, 1909, and thereafter such ships and vessels shall be subject to the provisions of Sections 952 to 957 of the Canada Shipping Act, both inclusive;

Provided, that steamships of not less than fifteen hundred tons gross tonnage each, of the following countries, namely:—Italy, Germany, The Netherlands, Sweden, Norway, Austro-Hungary, Denmark, Belgium, The Argentine Republic and Japan shall be admitted to the coasting trade of Canada in the carrying of goods and passengers coastwise between any port in the Province of Nova Scotia and any port in the Province of Quebec, and *vice versa*, on the same terms and conditions as are applicable to Canadian vessels, until the 31st day of December, 1911.

JOHN McDUGALD,  
Commissioner of Customs.

Mailed direct to Outports and Stations.

No. 1514 B.

MEMORANDUM.

Department of Customs, Canada, Ottawa,  
31st December, 1908.

To Collectors of Customs:

Coasting Trade of Canada.

Referring to Memorandum 1510 B., in the above matter, you are advised that by Order in Council of this date it is declared that steamships of foreign countries



which had been admitted to, and were under charter to engage in, the coasting trade of the Dominion of Canada, at 31st December, 1908, shall be permitted to continue in the coasting trade of Canada, in the carrying of goods and passengers coastwise in the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Quebec, on the same terms and conditions as are applicable to Canadian vessels until the first day of July, 1909, notwithstanding anything in the Order in Council of 17th December, 1908, respecting the coasting trade of Canada.

JOHN McDUGALD,  
Commissioner of Customs.

Mailed direct to Outports and Stations.

2808

No. 42.

CANADA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(No. 65.)

MY LORD,

Downing Street, 30 January, 1909.

I HAVE the honour to acknowledge the receipt of Your Excellency's despatch, No. 14, of the 12th of January,\* and to request that you will inform your Ministers that the Secretary of State for Foreign Affairs has been requested to communicate to the Danish Government the decision of your Ministers as to the conditions under which Danish vessels may engage in the coasting trade of the Dominion.

I have, &c.,  
CREWE.

2808

No. 43.

CANADA.

COLONIAL OFFICE to FOREIGN OFFICE.

SIR,

Downing Street, 30 January, 1909.

IN continuation of the letter from this Office of the 11th of January,† I am directed by the Earl of Crewe to transmit to you the accompanying copy of a despatch\* from the Governor-General of Canada, on the subject of the continued admission of Danish vessels to the privileges of the Canadian coasting trade.

I am, &c.,  
H. W. JUST.

2808

No. 44.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL and GOVERNORS.

(Australia. No. 71.)

(Cape of Good Hope. No. 54.)

(New Zealand. No. 38.)

(Transvaal. No. 55.)

(Newfoundland. No. 26.)

(Orange River Colony. (No. 28.)

(Natal. No. 37.)

MY LORD,

Downing Street, 18 February, 1909.

WITH reference to my predecessor's despatch, [No. [75] [35] [29] [29] [39], of the 5th March last,†] [No. [60] [29], of the 6th March last,†] I have the honour to transmit to [your Excellency] [you], for the information of your Ministers, copies

\* No. 41. † L.F. sending copy of 991 (not printed). ‡ Nos. 57 and 58 in Dominions No. 5.

of two memoranda\* respecting further Orders in Council of the Canadian Government relating to the coasting trade, dated 17 December and 31 December last, respectively.

I have, &c.,  
CREWE.

V.

(Resolution XI. (1).)

Model Draft Treaty of Commerce and Navigation.

25107

No. 45.

CANADA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 11 July, 1908.)

[Answered by No. 48.]

(Confidential.)

MY LORD,

The Citadel, Quebec, Canada, 29 June, 1908.

I HAVE the honour to enclose copy of an approved minute of the Privy Council, containing the observations of my responsible advisers upon your Lordship's confidential despatch of the 22nd ultimo† on the subject of the model draft Treaty of Commerce and Navigation proposed by His Majesty's Government for adoption in future negotiations with foreign Powers.

I have, &c.,  
GREY.

Enclosure in No. 45.

(P.C. 2167 M.)

CERTIFIED COPY OF A REPORT of the Committee of the Privy Council approved by His Excellency the Governor-General on the 23rd June, 1908.

The Committee of the Privy Council have had under consideration a despatch, dated 22nd May, 1908, from the Right Honourable the Secretary of State for the Colonies, with reference to the proposed model draft Treaty of Commerce and Navigation.

The Minister of Trade and Commerce, to whom the said despatch was referred, observes that it would appear from Clauses 20 and 21 that the interests of the Dominion of Canada are adequately safeguarded.

The Minister also observes that His Majesty's Government has adopted the proposal made in the last paragraph of the letter from the Board of Trade referred to in Lord Crewe's despatch that when negotiations are projected with any particular country, the Government of each Dominion shall—where time and circumstances permit—be notified of the fact and invited to express any views which it may desire to offer relating to the trade between Canada and the country concerned.

The Committee submit the foregoing for Your Excellency's information.

RODOLPHE BOUDREAU,  
Clerk of the Privy Council.

25395

No. 46.

NEW ZEALAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 14 July, 1908.)

[Answered by No. 47.]

(Confidential.)

MY LORD,

Wellington, 4 June, 1908.

I HAVE the honour to acknowledge your predecessor's confidential despatches

\* In No. 41.

† No. 81 in Dominions No. 5.



of the 3rd and 19th of February, 1908,\* on the subject of the draft Treaty of Commerce and Navigation.

2. I now enclose, for your Lordship's information, a copy of a memorandum which I have to-day received from my Ministers upon this subject.

I have, &c.,  
PLUNKET,  
Governor.

Enclosure in No. 46.

MEMORANDUM FOR HIS EXCELLENCY THE GOVERNOR.

Wellington, New Zealand, 15 May, 1908.

I must express my regret to Your Excellency that advantage has not previously been taken when acknowledging receipt of confidential papers in connection with the Colonial Conference, 1907, to make some comments thereon. The subsequent receipt of despatches from the Secretary of State forwarding suggestions from the Governor of Canada, Australia, and other British Possessions makes it desirable that some remarks should also be offered from the point of view of this Dominion.

In acknowledging receipt of confidential despatches, dated 3rd and 19th February, 1908, forwarding replies from other Dominions, I have, therefore, now to ask Your Excellency to be good enough to inform Lord Elgin that the memorandum laid before the Conference "with regard to the best means of consulting the Colonies in commercial negotiations" and "the draft Treaty of Commerce and Navigation," has received the consideration of your Government, and the following remarks thereon are submitted to his Lordship:—

Article 1.—This article appears to be inconsistent with the restrictions at present existing in New Zealand on alien immigration, which it may, at some future time, be considered desirable to extend.

Articles 1, 2, 5, 6, 10.—These articles contain matter inconsistent with action which might be taken in the direction of negotiating a special fiscal treaty with a particular foreign State.

Article 20.—The suggestion of the Prime Minister of Australia in paragraph 4 of his despatch of the 27th November, 1907, namely, that the wording of Article 20 might be so altered as to give the option of adhering to certain clauses of a treaty without rejecting the whole, might meet the difficulties which would arise in connection with giving unreserved adherence to a treaty in certain cases.

J. G. WARD,  
Prime Minister.

25395

No. 47.

NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR.

(Confidential.)

MY LORD,

Downing Street, 4 August, 1908.

I HAVE the honour to acknowledge the receipt of your confidential despatch of the 4th of June,† enclosing a memorandum from your Ministers on the subject of the model draft Treaty of Commerce and Navigation.

2. In reply I have to request you to refer your Ministers to my confidential despatch of the 22nd of May,‡ from which they will observe that His Majesty's Government regret that they have not at present seen their way to adopt the suggestion of the Commonwealth of Australia that the wording of Article 20 of the model draft might be so altered as to give the option to a self-governing Dominion of adhering to certain clauses of a treaty only.

\* Nos. 69 and 73 in Dominions No. 5. † No. 46. ‡ No. 81 in Dominions No. 5.

3. At the same time I have to transmit to you copy of a reply\* which has been received from the Government of Canada on the subject of the draft treaty.

I have, &c.,  
CREWE.

25395

No. 48.

CANADA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Confidential.)

MY LORD,

Downing Street, 4 August, 1908.

I HAVE the honour to acknowledge the receipt of Your Excellency's confidential despatch of the 29th of June,\* enclosing copy of an approved minute of your Privy Council on the subject of the model draft Treaty of Commerce and Navigation.

2. I now transmit to you, for the information of your Ministers, copy of a despatch,† received from the Governor of New Zealand, giving the views of his Ministers on the subject of the draft treaty.

I have, &c.,  
CREWE.

25395

No. 49.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL AND GOVERNORS.

(Commonwealth of Australia.)

(Natal.)

(Newfoundland.)

(Transvaal.)

(Cape of Good Hope.)

(Orange River Colony.)

(Confidential.)

MY LORD,

Downing Street, 4 August, 1908.

SIR,

WITH reference to my confidential despatch of the 22nd of May,‡ I have the honour to transmit to [you], [Your Excellency], to be laid before your Ministers, copies of further despatches§ which have been received from the Governor-General of Canada and the Governor of New Zealand on the subject of the model draft Treaty of Commerce and Navigation.

I have, &c.,  
CREWE.

25395

No. 50.

CANADA: NEW ZEALAND.

COLONIAL OFFICE to BOARD OF TRADE AND FOREIGN OFFICE.

SIR,

Downing Street, 4 August, 1908.

WITH reference to the letter from this Department of the 27th May,|| your letter of the 8th May,¶

To Governor-General, Canada, 22nd May.  
Governor-General, Canada, 29th June.  
Governor, New Zealand, 4th June.  
To Governor, New Zealand.

I am directed by the Earl of Crewe to transmit to you, for the information of the Board of Trade, copies of further correspondence\*\* as noted in the margin on the subject of the draft model treaty.

I am, &c.,  
C. P. LUCAS.

\* No. 45. † No. 46. ‡ No. 81 in Dominions No. 5. § Nos. 45 and 46.  
|| L.F. transmitting copy of No. 81 in Dominions No. 5. ¶ No. 78 in Dominions No. 5.  
\*\* No. 81 in Dominions No. 5 and Nos. 45, 46 and 47 in this book.



32578

No. 51.

## ORANGE RIVER COLONY

THE GOVERNOR to THE SECRETARY OF STATE.

(Received September 5, 1908.)

(Confidential.)

MY LORD,

Governor's Office, Bloemfontein,  
Orange River Colony, 17 August, 1908.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch, Confidential, of the 22nd May,\* enclosing copy of a letter from the Board of Trade on the subject of the model draft treaty of commerce and navigation.

2. My Ministers have no remarks to offer regarding the points raised in the enclosure to the despatch under reply, and they regret that owing to pressure of business they have been unable to give the matter their attention ere now.

I have, &amp;c.,

HAMILTON GOULD-ADAMS,

Governor.

32578

No. 52.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

[Copy to Foreign Office and Board of Trade, September 18, 1908. L.F.]

(Australia.)

(Natal.)

(Canada.)

(New Zealand.)

(Cape of Good Hope.)

(Newfoundland.)

(Transvaal.)

(Confidential.)

MY LORD,

SIR,

Downing Street, 16 September, 1908.

WITH reference to my confidential despatch of the 4th of August,† I have the honour to transmit to Your Excellency a copy of a despatch‡ which has been received from the Governor of the Orange River Colony on the subject of the Model Draft Treaty of Commerce and Navigation.

I have, &amp;c.,

CREWE.

36211

No. 53.

## AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received October 3, 1908.)

[Copy to Foreign Office and Board of Trade, October 12, 1908. L.F.]

(Confidential.)

MY LORD,

Governor-General's Office, Sydney,  
27 August, 1908.

REFERRING to your Lordship's confidential despatch, dated 22nd May last,\* transmitting copies of communications from the Board of Trade and the Governor of the Orange River Colony on the subject of the model draft Treaty of Commerce and Navigation, I have the honour to inform your Lordship that I am advised by my Prime Minister that "this Government has no objection to the draft Treaty on the

\* No. 81 in Dominions No. 5.

† Nos. 47, 48, and 49.

‡ No. 51.

understanding that the Commonwealth could not be a party to any Treaty which would hamper its action in dealing with such subjects as the differential treatment of British or Australian shipping, reciprocity with other countries, and restriction of immigration."

I have, &amp;c.,

NORTHCOTE,

Governor-General.

36211

No. 54.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL AND GOVERNORS.

[Copy to Foreign Office and Board of Trade, October 12, 1908. L.F.]

(Canada.)

(Natal.)

(Newfoundland.)

(Transvaal.)

(New Zealand.)

(Orange River Colony.)

(Cape of Good Hope.)

(Confidential.)

MY LORD,

Downing Street, 9 October, 1908.

SIR,

WITH reference to my despatch, confidential, of the 16th of September,\* I have the honour to transmit to Your Excellency, for the information of your Ministers, a copy of a despatch† which has been received from the Governor-General of the Commonwealth of Australia, on the subject of the model draft Treaty of Commerce and Navigation.

I have, &amp;c.,

CREWE.

## VI.

## Resolution XI. (2).

Withdrawal of all Colonies from certain Treaties.

24700

No. 55.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 10 July, 1908.)

[Answered by No. 58.]

SIR,

Foreign Office, 9 July, 1908.

I AM directed by Secretary Sir E. Grey to state that he has had under consideration the letter from the Colonial Office of the 23rd ultimo, No. 16873/1908,‡ relative to the withdrawal of the self-governing Dominions from the Anglo-Colombian Treaty of 1886.

I am to state that Sir E. Grey concurs in the view put forward in the third paragraph of that letter that there are grave objections to the adoption of any treaty which makes, in regard to purely political rights, as against commercial or quasi-commercial rights, a distinction between British subjects according to the place of their birth or residence, and that he sees no objection to the suggestion contained in paragraph 4 that the Colombian Government should be asked to agree to a treaty under which the British self-governing Colonies shall be allowed to withdraw from Clauses 2-10 of the Treaty of 1886.

I am to enquire whether Lord Crewe wishes to consult the self-governing Dominions before further action is taken here.

I am, &amp;c.,

LOUIS MALLETT.

\* No. 52.

† No. 53.

‡ No. 83 in Dominions No. 5.



24010

No. 56.

CANADA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(No. 408.)

MY LORD,

Downing Street, July 9, 1908.

WITH reference to previous correspondence, I have the honour to transmit to your Excellency copies of the Arbitration Convention\* between the United Kingdom and the United States of America, as ratified at Washington, on the 4th of June.

2. The Convention is being laid forthwith before both Houses of Parliament.

I have, &c.,  
CREWE.

24010

No. 57.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL and GOVERNORS

[Answered by Nos. 59 and 63.]

(Commonwealth of Australia. No. 221.)	(Natal. No. 114.)
(New Zealand. No. 120.)	(Transvaal. No. 182.)
(Newfoundland. No. 105.)	(Orange River Colony. No. 79.)
(Cape of Good Hope. No. 127.)	

MY LORD,

SIR,

Downing Street, 9 July, 1908.

I HAVE the honour to transmit to Your Excellency, to be laid before your Ministers, copies of the Arbitration Convention\* between the United Kingdom and the United States of America, signed at Washington on the 4th of April and ratified on the 4th of June, 1908.

2. Your Ministers will no doubt observe with satisfaction that His Majesty's Government have in express terms reserved the right, before concluding a special agreement under the Convention in any matter affecting the interests of a self-governing Dominion of the British Empire, to obtain the concurrence therein of the Government of that Dominion.

I have, &c.,  
CREWE.

24700

No. 58.

COLONIAL OFFICE to FOREIGN OFFICE.

[Answered by Nos. 65 and 70.]

SIR,

Downing Street, 28 July, 1908.

I AM directed by the Earl of Crewe to acknowledge the receipt of your letter of the 9th of July† on the subject of the Anglo-Colombian Treaty.

2. In reply I am to request you to inform Secretary Sir E. Grey that Lord Crewe does not consider it either necessary or desirable to consult the self-governing Dominions before further action is taken in the matter, and he would suggest that negotiations should be forthwith resumed on the basis suggested in the letter from this office of the 23rd of June.‡

3. With reference to your letter of the 22nd of June‡ on the subject of the proposed treaty with Salvador, I am to point out that the alterations which appear to have been made in the model treaty in January last and submitted to the Guatemalan Government in February last—and which have not hitherto been communicated to this Department—raise in another form the same difficulty, as has

\* [Cd. 4179], August, 1908.

† No. 55.

‡ No. 83 in Dominions No. 5.

arisen in the case of the Anglo-Colombian Treaty. The proposed Articles 4 and 5 deal mainly with political rights and not with commercial matters.

4. The replies of the self-governing Dominions regarding the proposed treaty with Guatemala, which were communicated to you in the letters\* from this Department noted in the margin, show that few, if any, of these Governments are likely to adhere to the treaty, and the same will doubtless be the case in regard to the similar treaty which it is desired to negotiate with Salvador.

5. As a result it would be difficult to claim for Australian British subjects in Guatemala or Salvador the important political privileges proposed to be included in the treaties.

6. The same remark applies indeed to the fourth, and sixteenth, and perhaps the third articles of the Model Treaty, and Lord Crewe regrets that this matter did not receive further consideration when that treaty was drafted.

7. Lord Crewe would accordingly suggest, for Sir E. Grey's consideration, that it would now be desirable if possible to divide the proposed treaties with Guatemala and Salvador into two parts on the same principles as it has been decided to adopt in the case of the Anglo-Colombian Convention. The political part should be concluded for all parts of the Empire and no right of separate adherence or withdrawal should be asked for on behalf of the Colonies; the commercial part should contain the commercial portion of the Model Treaty and the usual clauses as to withdrawal and adherence.

8. In place of the negotiation of two treaties, it might be possible, if thought preferable, to negotiate one treaty, with two parts, the Colonies being permitted to adhere separately to the commercial part, the political part applying generally; but this course might possibly accentuate in a manner somewhat undesirable the contrast between political and commercial matters as regards the right of the Colonies to adhere.

9. Lord Crewe realises that it may not be altogether easy to adopt the proposal in this letter, but he fears that unless this course is adopted there is a possibility of serious difficulties arising in future.

10. Pending a decision on this question Lord Crewe does not propose to address any despatch to the self-governing Dominions regarding the changes in the proposed Salvador Treaty.

11. A copy of this letter has been forwarded to the Board of Trade.

I am, &c.,  
C. P. LUCAS.

28020

No. 59.

NEWFOUNDLAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received August 1, 1908.)

[Copy to Foreign Office, August 10, 1908. L.F.]

(No. 93.)

Government House, St. John's,

Newfoundland, 22nd July, 1908.

MY LORD,

I HAVE the honour to enclose herewith, for your Lordship's information, copy of a communication which I have received from the Right Honourable Sir Robert Bond, relating to your Lordship's despatch, No. 105, of date 9th July.†

I have, &c.,  
WM. MACGREGOR.

Enclosure in No. 59.

Colonial Secretary's Office, St. John's,

Newfoundland, 20th July, 1908.

SIR,

I HAVE the honour to acknowledge the receipt of your favour of the 20th instant, covering despatch, No. 105, of date 9th July, from the Right Honour-

\* Not printed.

† No. 57.



able the Secretary of State for the Colonies, with copy of the Arbitration Convention between the United Kingdom and the United States of America.

Ministers have pleasure in noting that His Majesty's Government reserved the right, before concluding a special agreement under the Convention in any matter affecting the interests of a self-governing dominion of the Empire, to obtain the concurrence therein of the Government of that dominion.

I have, &c.,

R. BOND,

Colonial Secretary.

His Excellency

Sir William MacGregor, G.C.M.G., C.B.,

&c., &c., &c.,

Governor.

31515

No. 60.

QUEENSLAND.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received August 29, 1908.)

SIR,

Foreign Office, August 28, 1908.

I AM directed by Secretary Sir E. Grey to acknowledge the receipt of your letter 21896 of August 25th,\* and to transmit to you, herewith, to be laid before the Secretary of State for the Colonies, a copy of the despatch which was addressed to His Majesty's Ambassador at Tokio on June 30th last, instructing His Excellency to notify formally to the Japanese Government the determination of the adherence of Queensland to the Anglo-Japanese Treaty of 1894.

I am to state that it is not known whether this step has been taken, but that Sir C. MacDonald's reply as soon as it reaches this Department will be communicated to you forthwith.

Sir E. Grey will be glad meanwhile to make enquiries by telegraph should the Earl of Crewe desire it.

I am, &c.,

W. LANGLEY.

Enclosure in No. 60.

Sir EDWARD GREY to Sir C. MACDONALD.

(No. 160.)

SIR,

Foreign Office, June 30, 1908.

I TRANSMIT to your Excellency copies of correspondence with the Colonial Office on the subject of the desire of the Government of the Commonwealth of Australia to give notice of the termination of the adherence of Queensland to the Anglo-Japanese Treaty of 1894.

I shall be glad if you will give formal notice to the Japanese Government of the determination of the adherence of Queensland to the Treaty, in accordance with the terms of Article 2 of the Protocol signed at Tokio on the 16th July, 1894, and if you will report to me as soon as this has been done.

I am, &c.,

E. GREY.

32385

No. 61.

QUEENSLAND.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received September 4, 1908.)

The Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary of State for the Colonies, and, by direction of the Secretary

\* L.F. reminder of No. 100 in Dominions No. 5.

of State, transmits herewith copy of the following paper:—Sir C. MacDonald, Tokio, July 31, 1908. (Queensland and Anglo-Japanese Treaty of 1894.)

Reference to previous letter: Foreign Office, August 28.\*

Foreign Office,

September 4, 1908.

Enclosure in No. 61.

(No. 189.)

SIR,

Tokio, July 31, 1908.

I HAVE the honour to acknowledge receipt of your despatch, No. 160, of June 30th, instructing me to give formal notice to the Japanese Government of the determination of the adherence of Queensland to the Anglo-Japanese Treaty of 1894 in accordance with the terms of Article 2 of the Protocol signed at Tokio, March 16th, 1897.

I have the honour to report that I have this day given formal notice to the Japanese Government in a note addressed to General Viscount Terauchi, Minister for Foreign Affairs, copy of which is herewith enclosed.

I have, &c.,

CLAUDE M. MACDONALD.

The Right Honourable

Sir Edward Grey, Bart., M.P.,

&c., &c., &c.

(No. 63.)

MONSIEUR LE MINISTRE,

Tokio, July 31, 1908.

I HAVE the honour in accordance with instructions which I have received from His Majesty's Government, to give to the Japanese Government formal notice of the intended determination of the adherence of Queensland to the Anglo-Japanese Treaty of 1894. This notice is given at the request of the Government of the Commonwealth of Australia with the concurrence of the Queensland Government and in accordance with the provisions of Article 2 of the Protocol signed at Tokio on March 16th, 1897, by Count Okuma and Sir E. Satow, under the terms of which the Treaty shall cease to be binding as between Japan and Queensland at the expiration of twelve months after notice has been given on either side of a desire to terminate the same.

I take, &c.,

CLAUDE M. MACDONALD,

Ambassador.

32385

No. 62.

AUSTRALIA.

THE SECRETARY OF STATE to THE ACTING GOVERNOR-GENERAL.

(No. 312.)

SIR,

Downing Street, 4 September, 1908.

WITH reference to Lord Northcote's telegram of the 17th of June,† I have the honour to transmit to you, for the information of your Ministers, copy of a despatch‡ from His Majesty's Ambassador at Tokio on the subject of the determination of the adherence of Queensland to the Anglo-Japanese Treaty of 1894.

I have, &c.,

CREWE.

\* No. 60.

† No. 98 in Dominions No. 5.

‡ Enclosure in No. 61.



32544

No. 63.

## ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received September 5, 1908.)

[Copy to Foreign Office, September 16, 1908. L.F.]

(No. 121.)

Governor's Office, Bloemfontein,

Orange River Colony, 17 August, 1908.

MY LORD,

I HAVE the honour to acknowledge the receipt of your Lordship's despatch, No. 79, of the 9th ultimo,\* enclosing copies of the Arbitration Convention between the United Kingdom and the United States of America signed at Washington on the 4th April and ratified on the 4th June, 1908.

2. My Ministers observe with satisfaction that His Majesty's Government, before concluding a special agreement under the Convention in any matter affecting the interests of a self-governing dominion of the Empire, have reserved the right to obtain the concurrence therein of the Government of that Dominion.

I have, &amp;c.,

HAMILTON GOOLD-ADAMS,

Governor.

32239

No. 64.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

[Copy to Foreign Office, September 25, 1908. L.F.]

(Canada. 556.)

(Cape of Good Hope. 191.)

(Commonwealth of Australia. 315.)

(Natal. 160.)

(Newfoundland. 134.)

(Transvaal. 284.)

(New Zealand. 152.)

(Orange River Colony. 111.)

MY LORD,

SIR,

Downing Street, 11 September, 1908.

WITH reference to the previous correspondence on the subject of securing the right of separate withdrawal from commercial treaties for the self-governing Dominions, I have the honour to transmit to Your Excellency, for the information

of your Ministers, the accompanying copy of a declaration which has been accepted by the Government of Liberia, and in which it is provided that any of the self-governing Dominions may withdraw on giving twelve months' notice, separately, from the treaty with Liberia of 1848.

2. Your Ministers will observe that it is provided that goods produced or manufactured in any of the self-governing Dominions shall enjoy in Liberia complete and unconditional most-favoured-nation treatment so long as each Dominion shall accord to goods the produce and manufacture of Liberia terms as favourable as it gives to the produce or manufacture of any other foreign country.

I have, &amp;c.,

CREWE.

Enclosure in No. 64.

Whereas the treaty of friendship and commerce between His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the President of the Republic of Liberia cannot be modified or terminated except by mutual consent on the part of the High Contracting Parties:

\* No. 57.

The Government of His Britannic Majesty and the Government of the Republic of Liberia hereby agree that any of His Majesty's Dominions mentioned below may withdraw from the treaty separately at any time on giving twelve months' notice to that effect, but that nevertheless the goods produced or manufactured in any of such Dominions shall enjoy in Liberia complete and unconditional most-favoured-nation treatment, so long as such Dominion shall accord to goods the produce or manufacture of Liberia, treatment as favourable as it gives to the produce or manufacture of any other foreign country. The Dominions to which this declaration applies are the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, Cape of Good Hope, Natal, Newfoundland, Orange River Colony, and Transvaal, and the Indian Empire.

Done at Monrovia this twenty-third day of July in the year of Our Lord, 1908.

BRAITHWAITE WALLIS,

His Britannic Majesty's Consul.

F. E. R. JOHNSON,

Secretary of State.

34754

No. 65.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 23 September, 1908.)

[Copy to Board of Trade, 22 October, 1908.]

[Answered by No. 68.]

Foreign Office, 22 September, 1908.

SIR,

I AM directed by Secretary Sir E. Grey to acknowledge the receipt of the letter from the Colonial Office of July 28th last,\* relative to the proposed agreement with the Colombian Government to provide for the withdrawal of the British Self-Governing Dominions from the Anglo-Colombian Treaty of 1866.

2. I am to transmit to you, herewith, copy of a letter which has been received from the Board of Trade on this subject dealing with the objections raised by the Colombian Government to the form of agreement originally submitted to them by His Majesty's Minister at Bogotá, and with the alterations which that Government propose should be made therein with a view to meeting these objections.

3. I am to state that Sir E. Grey concurs in the view expressed by the Board of Trade on this question, and generally with the proposals put forward by the Board and by the Earl of Crewe in the letter from the Colonial Office of June 23rd last,† to the effect that the proposed declaration should be so worded as to enable the Self-Governing Dominions to withdraw from the Commercial Articles of the Anglo-Colombian Treaty of 1866 only. I am to point out, however, that the Board of Trade suggest in the accompanying letter that the Colonies should be given power to withdraw not only from Articles II.—X. of the Anglo-Colombian Treaty, but from Articles XI. and XX. of that Agreement.

If Lord Crewe concurs in this suggestion, and also shares the objections raised by the Board of Trade to the proposals of the Colombian Government, I am to state that Sir E. Grey proposes to send instructions to His Majesty's Minister at Bogotá to address a communication to the Colombian Minister for Foreign Affairs pointing out these objections, and inviting His Excellency to agree to the declaration being so worded as to enable the British Self-Governing Dominions to withdraw from Articles II.—XI. and XX. of the Anglo-Colombian Treaty of 1866.

I am, &amp;c.,

LOUIS MALLET.

Enclosure in No. 65.

Board of Trade (Commercial Department), 7, Whitehall Gardens,

London, S.W., 5th August, 1908.

SIR,

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 9th May (number 15240), with its enclosures, on the subject of the proposed agreement with Colombia to provide for the withdrawal of the British Self-Governing Colonies from the Anglo-Colombian Treaty of 1866.

\* No. 58.

† No. 83 in Dominions No. 5.



With reference to the second and third paragraphs of the note forming one of the enclosures, in which the Colombian Minister for Foreign Affairs states that His Government would be unable to accept the agreement in terms which appeared to permit the natives of a Colony that had withdrawn from the Treaty still to claim its privileges as "British subjects," the Board have carefully considered Sir E. Grey's suggestion that, in order to meet this objection, an express stipulation should be added to the agreement to the effect that no such claim would be supported by His Majesty's Government. They feel, however, that, whilst in the case of the Colombian Treaty such a declaration could very likely be made without undue risk, it might constitute an awkward precedent for the future. They accordingly venture to suggest, for Sir E. Grey's consideration, that the objection of the Colombian Government might preferably be met by an agreement authorising the Self-Governing Colonies to withdraw only from Articles II. to XI. and Article XX. of the Treaty, which refer particularly to matters of commerce and navigation, leaving the remaining articles, which provide for mutual peace and friendship, liberty of conscience, exemption from military service, national treatment as regards residence, travel, administration of justice, taxes, property, trade marks, &c., in force and applicable alike to all British subjects on the one hand, and Colombian subjects, whether in the United Kingdom or in other parts of His Majesty's Dominions, on the other.

With reference to the fourth paragraph of Senor Urrutia's Note, the Board observe that his Government propose, by the modified clause which they put forward, to grant to goods imported from Colonies which may withdraw from the Treaty only such treatment as is accorded to "the most-favoured nation nonlimitrophe nation." Whilst it is true that a similar provision has been accepted by His Majesty's Government in commercial treaties with some other countries, the Treaty of 1866 prescribes no such limitation in the most-favoured-nation clauses. If, therefore, the Colombian counter-proposal were accepted, the Colonies which withdrew from the Treaty would be in a less favoured position than the rest of the Empire in this respect, and in view of this consideration it might be desirable in the first instance to give the Colonial Governments an opportunity of considering the proposed modification.

As regards the words "with the same reservations, should the concession be conditional" which constitutes a further suggested amendment of the clause, the Board understand the Colombian Government to propose that in the event of their according a concession to another country in return for a favour accorded to their own, the concession should not be granted to the Colonies except for an equivalent consideration. If this be the meaning of the words, the proposal would appear to strike at the root of the most-favoured-nation principle, and could not, the Board submit, be entertained by His Majesty's Government. Lastly, I am to point out that the modified clause would provide for the accord by the Colonies to Colombia of the same treatment as that which they give to the "produce and manufactures of the most-favoured-nations" without any such reservations as those referred to, and that the proposal of the Colombian Government is not, therefore, reciprocal in form.

I have, &c.,

The Under Secretary of State,  
Foreign Office.

ARTHUR WILSON FOX.

37516

No. 66.

QUEENSLAND.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received October 14, 1908.)

The Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary of State for the Colonies, and, by direction of the Secretary of State, transmits herewith copy of the following paper:—His Majesty's Ambassador at Tokyo, No. 223, August 31. (Queensland and the United Kingdom and Japan Treaty of 1894.)

Reference to previous letter: Foreign Office, September 4.\*

Foreign Office,  
October 14, 1908.

\* No. 61.

Enclosure in No. 66.

Tokyo, August 31, 1908.

SIR,

WITH reference to my despatch, No. 189, of the 31st July, in which I informed you that I had that day given formal notice to the Japanese Government, in accordance with your instructions, of the intention of the Queensland Government to terminate its adherence to the Anglo-Japanese Treaty of 1894 under the provisions of Article II. of the Protocol of 1897, I have the honour to forward translation of a note from the Japanese Government acknowledging receipt of my despatch on August 1st.

I have, &c.,

CLAUDE M. MACDONALD.

The Right Honourable

Sir Edward Grey, Bart., M.P.,

&c., &c., &c.

(Translation.)

(No. 67.)

Tokyo, August 24, 1908.

SIR,

I DULY received on the 1st instant Your Excellency's note, No. 63, of July 31 last, giving formal notice of the wish expressed by Queensland, Australia, through the Government of the Commonwealth of Australia, to terminate its adherence to the Anglo-Japanese Treaty of 1894 in accordance with the provisions of Article II. of the Protocol of 1897.

I avail, &c.,

TERAUCHI MASATAKE.

Minister for Foreign Affairs.

His Excellency

Sir Claude M. Macdonald, G.C.M.G., K.C.B.,

&c., &c., &c.

37516

No. 67.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Copy to Foreign Office, 20 October, 1908. L.F.]

(No. 363.)

MY LORD,

Downing Street, 20 October, 1908.

WITH reference to my despatch, No. 312, of the 4th of September,\* I have the honour to transmit to Your Excellency, for the information of your Ministers, the accompanying copy of a despatch† from His Majesty's Ambassador at Tokyo, on the subject of the termination of the adherence of the Government of Queensland to the Anglo-Japanese Treaty of 1894.

I have, &c.,

CREWE.

34754

No. 68.

COLONIAL OFFICE to FOREIGN OFFICE.

[Copy to Board of Trade, 22 October, 1908.]

[Answered by No. 69.]

SIR,

Downing Street, 22 October, 1908.

I AM directed by the Earl of Crewe to acknowledge the receipt of your letter of the 22nd of September,‡ on the subject of the proposed agreement with the Colombian Government to provide for the withdrawal of the British self-governing Dominions from the Anglo-Colombian Treaty of 1866.

2. In reply, I am to request that you will inform Secretary Sir Edward Grey that Lord Crewe concurs in the proposal that the Colombian Government should be asked to accept an agreement under which the self-governing Dominions should have the power to withdraw at a year's notice from Clauses 2 to 11 and 20 of the Treaty of 1866.

\* No. 62.

† Enclosure in No. 66.

‡ No. 65.



3. At the same time, however, I am to enquire whether Sir Edward Grey concurs in the proposal made in the letter from this Office of the 28th of July,\* that in future negotiations—for example, those pending with Salvador and Guatemala—steps should be taken to divide into two separate treaties that model Treaty, in order that a clear distinction may be drawn between political and commercial clauses.

4. I am to explain that Lord Crewe thinks that it may be desirable, if it is decided to adopt the change which he has recommended, to make some notification to the self-governing Dominions, in view of the fact that they have hitherto been led to understand that the model draft Commercial Treaty represents the basis for negotiation accepted by His Majesty's Government.

5. A copy of this letter has been communicated to the Board of Trade.

I am, &c.,

FRANCIS J. S. HOPWOOD.

40207

No. 69.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 3 November, 1908.)

[Answered by No. 72.]

The Under-Secretary of State for Foreign Affairs presents his compliments to the Under-Secretary of State for the Colonies, and, by direction of the Secretary of State, transmits herewith the following paper for the concurrence of the Earl of Crewe:—Draft despatch to Mr. Stronge:—(Proposed Agreement with Colombia respecting Anglo-Colombian Treaty of 1866).

(Similar letter sent to Board of Trade.)

Foreign Office,  
November 2, 1908.

REFERENCE TO PREVIOUS LETTER:

Colonial Office, October 22. No. 34754.†

Enclosure in No. 69.

(Draft. To Mr. Stronge.)

SIR, Foreign Office, November , 1908.  
In your despatch, No. 42, Commercial, of the 27th of March last, you communicated to me certain amendments which the Colombian Government desired to see introduced into the proposed agreement to provide for the withdrawal of the British Self-governing Dominions from the Anglo-Colombian Treaty of 1866.

The Minister for Foreign Affairs objects to the possibility of British subjects in a Colony which has withdrawn from the treaty claiming the benefit of its stipulations not only as regards matters of commerce and navigation, but also in questions of trade-marks and designs applicable to manufactures, privileges, and exemptions in favour of Consular Agents, and other matters.

In order to overcome this difficulty His Majesty's Government propose that the words "withdrawn from the Treaty" should be replaced by the words "withdraw from Articles II. to XI. inclusive and from Article XX. of the Treaty," the Articles mentioned being those which refer particularly to matters of commerce and navigation. This would leave the remaining Articles in force and applicable alike to all British subjects on the one hand, and Colombian subjects whether in the United Kingdom or in other parts of His Majesty's dominions on the other.

With regard to the amplification of the most-favoured-nation clause proposed by the Minister for Foreign Affairs, although similar provisions respecting privileges granted to conterminous countries have been accepted by His Majesty's

\* No. 58.

† No. 68.

Government in commercial treaties with some other countries, the Treaty of 1866 with Colombia, which is the treaty the permission to withdraw from which by the Self-governing Colonies forms the subject of the proposed Agreement, prescribes no such limitation in the most-favoured-nation clauses. If, therefore, the Colombian counter-proposal were accepted, the Colonies which withdrew from the treaty would be in a less favoured position than the rest of the Empire in this respect, and in view of this consideration it might be desirable, in the first instance, to give the Colonial Governments an opportunity of considering the proposed modification.

As regards the words "with the same reservations, should the concession be conditional," which constitute a further suggested amendment of the clause, His Majesty's Government understand the Colombian Government to propose that, in the event of their according a concession to another country in return for a favour accorded to their own, the concession should not be granted to the Colonies except for an equivalent consideration. If this be the meaning of the words, the proposal would appear to strike at the root of the most-favoured-nation principle, and could not be entertained by His Majesty's Government. Lastly, I would point out that the modified clause would provide for the accord by the Colonies to Colombia of the same treatment as that which they give to the "produce and manufactures of the most favoured nations" without any such reservations as those referred to, and that the proposal of the Colombian Government is not, therefore, reciprocal in form.

I request that you will communicate these observations to the Minister for Foreign Affairs.

I have, &c.,

40435

No. 70.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 5 November, 1908.)

[Answered by No. 72.]

SIR,

Foreign Office, November 4, 1908.

I AM directed by Secretary Sir E. Grey to advert to the letter from the Colonial Office of July 28th last,\* relative to the proposal that the British self-governing Dominions should be empowered to withhold or subsequently to withdraw their adherence to the commercial articles only of the treaties at present under negotiation with the Guatemalan and Salvadorian Governments.

I am to state that Sir E. Grey concurs in the view set forth in the letter from the Colonial Office mentioned above, and I am accordingly to suggest that instructions should now be sent to His Majesty's Minister at Guatemala to invite the Government of that Republic to agree to the following alterations in the draft treaty at present under negotiation:—

- (a) That in Article 22 thereof the words "Articles 1, 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 20" should be substituted for the two words "The stipulations" with which that article at present begins.
- (b) That in Article 23 of the draft treaty the words "withdraw separately at any time on giving twelve months' notice to that effect from Articles 1, 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 20" should be substituted for the words "terminate it separately at any time on giving twelve months' notice to that effect."

I am further to state that Sir E. Grey proposes to issue instructions to Mr. Carden to invite the Salvadorian Government to agree to alterations in the draft model treaty which has been submitted to them, similar to those enumerated above, but with the difference that the articles named as those from which the Colonies are to be empowered to withdraw would in this case be 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 19.

\* No. 58.



If the Earl of Crewe concurs in the above suggestions, Sir E. Grey presumes that His Lordship would desire that the form of the draft model treaty itself should also be amended in accordance therewith.

I am, &c.,  
LOUIS MALLET.

8985

No. 71.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

[Copy to Foreign Office, 30 December, 1908. L.F.]

(Canada. No. 782.) (Orange River Colony. No. 168.)  
(Australia. No. 439.) (Cape. No. 295.)  
(Transvaal. No. 449.)

MY LORD,  
SIR,

Downing Street, 24 December, 1908.

I HAVE the honour to request you to inform your Ministers that my attention has been called to an oversight in the second paragraph of my predecessor's despatch [No. 157, of the 25th March\*] [No. 103, of the 27th March†] [(No. 75, (No. 34), (No. 51), of the 25th March\*] last, on the subject of the agreement additional to the Commercial Convention between the United Kingdom and Egypt of the 29th of October, 1889.

2. In that paragraph it was implied that Colonies such as the Transvaal and Orange River Colony, which were not parts of the Empire at the time of the conclusion of the Convention, were, in the opinion of His Majesty's Government, for that reason not bound by that Convention. In the analogous case of the treaty with Liberia, however, the contrary principle has been recognized in the agreement between the United Kingdom and Liberia enclosed in my despatch of 11th September last.‡

3. It will be seen that Article 15 of the Egyptian Convention applies expressly to all the Colonies and foreign Possessions of His Britannic Majesty, with the exception of those specially mentioned, and the Convention must, therefore, be held to have been applicable to the Transvaal and Orange River Colony from the date of their incorporation in the British Empire until the additional agreement was signed. By that agreement, however, it was provided that the stipulations of the Convention of 1889 should not apply to any of His Majesty's Colonies or Possessions, unless they should express their desire to adhere, with the result that the Convention is no longer applicable to the Transvaal and Orange River Colony.

I have, &c.,  
CREWE.

40435

No. 72.

COLONIAL OFFICE to FOREIGN OFFICE.

[Answered by No. 72A.]

SIR,

Downing Street, 9 January, 1909.

I AM directed by the Earl of Crewe to acknowledge the receipt of your letter of the 2nd November last,§ relative to the proposed Agreement with Colombia respecting the Anglo-Colombian Commercial Treaty of 1866, and of your letter of the 4th idem|| relative to the proposed commercial treaties with Guatemala and Salvador.

2. Lord Crewe would suggest, for the consideration of Sir E. Grey, that these letters, with the previous correspondence, should be referred to a Committee composed of representatives of the Foreign Office, the Board of Trade, the India Office, and the Colonial Office, with instructions to consider and report upon the various questions involved.

\* No. 91 in Dominions No. 5. † No. 92 in Dominions No. 5. ‡ No. 64. § No. 69. || No. 70.

3. A careful review of the discussion has convinced Lord Crewe that further progress cannot be made until a number of points of detail have been thoroughly investigated, and he feels that, owing to the technical and intricate character of the subject matter, this cannot be conveniently done by exchange of letters between the several Departments concerned. Apart, moreover, from all questions of detail, it would appear that the principle on which the discussion has proceeded up to date is itself open to grave doubt.

4. It has hitherto been assumed that when a Colony declines to adhere to a treaty or withdraws from a treaty, the effect is to disqualify the Colony (including in that expression all the British subjects belonging to it) from the enjoyment of any right conferred by the treaty. Such a view seems to underlie the report furnished to the Foreign Office by the Law Officers of the Crown on the 22nd February, 1898,\* with regard to the treatment in Bulgaria of the "subjects and produce" of the Colonies which had not adhered to the Commercial Agreement concluded with that country in July, 1897.

5. Lord Crewe's attention has, however, been drawn to two later reports (dated respectively the 23rd January, 1899, and the 13th October, 1899†), which were furnished to the Foreign Office by the same Law Officers in connexion with the Japanese Treaty of 1894 and the International Convention for the Protection of Industrial Property of 1883, and in which a very different view was taken of the position of a Colony under a treaty to which it has not adhered. The substance of the first of these two later reports was communicated to the Japanese Government as the opinion of the British Government, and was received without protest. The substance of both reports, and of a third report which dealt with a matter not relevant to the present discussion, was communicated by Mr. Chamberlain to all the self-governing Colonies which had not adhered to the Japanese Treaty in a Circular, dated the 2nd December, 1899,‡ of which a copy is enclosed.

6. The views embodied in this Circular must of course be taken as applying to all treaties concluded with an article providing for the separate adherence of Colonies. Briefly summarized, they are as follows:—

- (1) non-adherence to a treaty does not limit the personal rights under the treaty of British subjects connected with a non-adhering Colony;
- (2) the only disqualification entailed by non-adherence is in regard to matters in which the test is local or geographical, as opposed to personal;
- (3) the foreign country on the other hand has no rights whatever in a non-adhering Colony;

and what applies to cases of non-adherence applies also to cases of withdrawal.

7. On this basis, there is no need to interfere with the existing system under which the Colonies are left free to accept or reject a treaty *en bloc*. Lord Crewe would, of course, be glad if such a position could be successfully maintained, but he does not consider that it would be prudent to assume that it can be successfully maintained without further enquiry.

8. In these circumstances, he hopes that Sir E. Grey will agree to the appointment of the proposed Committee, and on being informed to that effect, he will consider the representations of this office and make the necessary communications to the Board of Trade and the India Office.

I am, &c.,  
FRANCIS J. S. HOPWOOD.

3909

No. 72A.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received February 3, 1909.)

[Answered February 5, 1909, 3909: not printed.]

SIR,

Foreign Office, February 2, 1909.

WITH reference to your letter, 40435/08 of the 9th ultimo,§ respecting the position of His Majesty's Dominions beyond the seas adhering to commercial treaties

\* No. 164 in Vol. V. of Law Officers' Opinions.

† Nos. 206A and 232A in Vol. V. of Law Officers' Opinions. ‡ Not printed. § No. 72.



concluded between Great Britain and foreign countries and based on the draft treaty which has served as the usual model in all recent negotiations, I am directed by Secretary Sir E. Grey to state that he is prepared to accept the suggestion that an Interdepartmental Conference, consisting of representatives of this Office, the Colonial Office, the India Office, and Board of Trade, should consider the question.

It is suggested that the meeting should, if the Earl of Crewe has no objection, be held in Mr. Law's room at this Office on Monday next, the 8th instant, at 3 p.m., or such other day and time as may be generally convenient.

The India Office and Board of Trade are being invited to take part in the Conference.

I am, &c.,  
LOUIS MALLET.

## VII.

## Resolution XIV.

## Uniformity of Trade Statistics.

23804

No. 73.

SOUTH AFRICA.

BOARD OF TRADE to COLONIAL OFFICE.

(Received 2 July, 1908.)

Board of Trade (Commercial Department),

7, Whitehall Gardens, London, S.W., 1 July, 1908.

SIR,

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 18th June (No. 20,614),\* with enclosures, respecting the proposed visit to this Department of the Principal of the South African Customs Statistical Bureau, who is now on leave in this country.

In reply, I am to ask you to be good enough to inform Lord Crewe that the Board will be happy to arrange for such consultations as may be necessary between Mr. Lewis and officers of this Department.

I have, &c.,  
GEO. J. STANLEY.

23804

No. 74.

CAPE OF GOOD HOPE

THE SECRETARY OF STATE to THE GOVERNOR.

(No. 144.)

SIR,

Downing Street, 31 July, 1908.

WITH reference to your despatch, No. 104, of the 19th of May last,† I have the honour to transmit to you, for the information of your Ministers, a copy of a letter‡ from the Board of Trade relative to the proposal that Mr. Lewis, the Principal of the South Africa Customs Statistical Bureau, should be authorised to confer with the Board of Trade officials as regards the desirability of securing greater uniformity in the trade statistics of the Empire.

I understand that Mr. Lewis has presented himself at the Board of Trade, and that he is now in consultation with the officials of that Department. I, therefore, assume that the other South African Governments concerned have expressed their concurrence in this arrangement.

I have, &c.,  
CREWE.

23804

No. 75.

SOUTH AFRICA.

THE SECRETARY OF STATE to THE HIGH COMMISSIONER AND GOVERNORS.

(1. South Africa. No. 364.)

(3. Orange River Colony. No. 88.)

(2. Transvaal. No. 209.)

(4. Natal. No. 130.)

MY LORD,

Downing Street, 31 July, 1908.

SIR,

WITH reference to [(1) your despatch, No. 367, of the 4th of May last,\*] [(2), (3) and (4) my predecessor's despatch, No. [(2) 83], [(3) 39], [(4) 47]] of the 2nd of April last,† and previous correspondence relative to the desirability of greater uniformity in the trade statistics of the Empire, I have the honour to acquaint you [(2), (3) and (4) only, for the information of your Ministers] that at the suggestion of the Cape Government, the Board of Trade were approached with a view to arranging a series of consultations on the subject between the officials of the Board of Trade and Mr. Lewis, the Principal of the Customs Statistical Bureau, now on leave in this country.

The Board acquiesced in this proposal, and I understand that Mr. Lewis is now in consultation with officials of that Department.

As the suggestion of the Cape Government was subject to the concurrence of the other South African Governments concerned, I assume that [you] [your Ministers] agreed to it.

I have, &c.,  
CREWE.

30191

No. 76.

NEW ZEALAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 18 August, 1908.)

[Copy to Board of Trade, 25 August, 1908. L.F.]

[Answered by No. 78.]

(No. 50.)

MY LORD,

Government House, Wellington, 30 June, 1908.

I HAVE the honour to acknowledge your predecessor's despatches, "Miscellaneous," of the 30th July, 1907, and No. 53, of the 2nd April last,‡ with reference to the resolution passed at the Colonial Conference on the subject of the desirability of securing greater uniformity in the trade statistics of the Empire.

2. I enclose, for your Lordship's information, a copy of a memorandum which I have now received from my Prime Minister, in which he makes certain comments upon the note mentioned in the resolution.

I have, &c.,  
PLUNKET,  
Governor.

Enclosure in No. 76.

MEMORANDUM for His Excellency the Governor.

Prime Minister's Office, Wellington, New Zealand,

11 June, 1908.

Referring to despatch, dated 30th July, 1907, from the Secretary of State for the Colonies, and to the accompanying papers relating to the Colonial Conference of 1907, I have the honour to furnish Your Excellency with the following comments on the "Note on Trade Statistics," see page 521:—

(1) *Common Statistical Year.*—It is assumed that the practice in New Zealand

\* No. 126 in Dominions No. 5.

† No. 124 in Dominions No. 5.

‡ No. 73.

\* No. 122 in Dominions No. 5.

† No. 120 in Dominions No. 5.

‡ Nos. 106 and 120 in Dominions No. 5.



or making out the returns for the calendar year is in accordance with the wishes of the Board of Trade.

(2) *Countries of Origin and Ultimate Destination of Goods.*—Goods on through bill of lading or on transshipment entry are entered as from the country from which they were originally shipped. The same principle governs the export return. The goods are entered as exported to the country of ultimate destination so far as this can be ascertained. In the case of foreign goods liable to surtax, the particular foreign country from which they come is not shown, but the total value and amount of duty is shown separately. It would be in vain to expect importers to state the country of origin in the case of goods not subject to surtax in the case of goods not coming direct from such country. In many cases this information is not known, and any attempt to exact it would result in very imperfect and unreliable information being given.

(3) *Classification of Articles.*—Every care is taken to give sufficient details without burdening the return unduly. The order in which goods are stated approximates to that shown in the detailed import and export returns of the Board of Trade.

(4) *Classification of Articles in Groups.*—There would be no objection to embodying a return for imports similar to that shown in the statistics of the Board of Trade, 1906, Summary No. 2, but it is considered desirable that this should be done simultaneously by Canada, Australia, and New Zealand. So far as New Zealand is concerned, there is a return already in the Annual Volume of Statistics (see 1906, page 302), which shows a summary of imports in groups of principal articles, but the grouping does not accord with the order adopted by the Board of Trade.

The New Zealand Government would be glad to aid in the assimilation of returns with those of the United Kingdom, but is reluctant to make changes unless the principal British Possessions act simultaneously, because changes of classification or of order when adopted hinder comparison with returns of previous years.

J. G. WARD,  
Prime Minister.

31846

No. 77.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 31 August, 1908.)

[Copy to Board of Trade, 8 September, 1908. L.F.]

[Answered by No. 78.]

(No. 192.)

Governor-General, Adelaide, South Australia,  
22 July, 1908.

MY LORD.

REFERRING to your Lordship's predecessor's despatch "Miscellaneous," dated 30th July, 1907,\* on the subject of the desirableness of securing greater uniformity in the trade statistics of the Empire, I have the honour to transmit to your Lordship, under separate cover, for the information of the Board of Trade, six copies of the revised Statistical Classification of Commonwealth Imports and Exports.†

I have, &c.,  
NORTHCOTE,  
Governor-General.

\* No. 106 in Dominions No. 5.

† Dated June, 1908.

43144

No. 78.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL AND GOVERNORS AND HIGH COMMISSIONER.

[Copy to Board of Trade, 18 December, 1908. L.F.]

- |                                  |                                    |
|----------------------------------|------------------------------------|
| (1. Australia. No. 425.)         | (5. Natal. No. 246.)               |
| (2. New Zealand. No. 209.)       | (6. Transvaal. No. 434.)           |
| (3. Newfoundland. No. 184.)      | (7. Orange River Colony. No. 164.) |
| (4. Cape of Good Hope. No. 290.) | (8. South Africa. No. 607.)        |

MY LORD,

Downing Street, 14 December, 1908.

SIR,

- WITH reference to {
- (1) Your Excellency's despatch, No. 192, of the 22nd of July,\*
  - (2) your despatch, No. 50, of the 30th of June,†
  - (3) " " " 61, " 9th " May,‡
  - (4) my " " 144, " 31st " July,§
  - (5) my " " 130, " 31st " July,||
  - (6) my " " 209, " 31st " July,||
  - (7) your " " 136, " 7th " September,¶
  - (8) my " " 364, " 31st " July,||

I have the honour to transmit to [Your Excellency], [you], for the information of your Ministers, [8 only—you, for your information], the accompanying copy of a statement\*\* which has been prepared by the Board of Trade, summarising the replies received from the various self-governing Dominions, on the subject of the desirability of acquiring greater uniformity in the trade statistics of the Empire.

2. No reply has yet been received to my predecessor's despatch of 30th July, 1907,†† from the Government of Canada, but the Governor-General has been requested to invite the attention of his Ministers to the matter.

I have, &c.,  
CREWE.

Enclosure in No. 78.

## SUMMARY STATEMENT OF REPLIES RECEIVED FROM VARIOUS SELF-GOVERNING COLONIES RESPECTING UNIFORMITY OF TRADE RETURNS.

The suggestions submitted for the consideration of the Governments of the Self-Governing Colonies with a view to secure greater uniformity in the trade statistics of the Empire were briefly as follows:—

- (1) The adoption of a calendar year.
- (2) That countries of consignment of imports and of ultimate destination of exports should be shown.
- (3) That the classification of the articles, particularly "textiles" and "metals," should be amplified.
- (4) That articles should be summarised in main groups distinguishing trade with the United Kingdom, British Possessions, and foreign countries.

Replies have been received from each Self-Governing Colony, *except Canada*, and may be thus summarised:—

The South African, Australian, and New Zealand Governments already adopt a calendar year. The returns for Newfoundland are compiled for years ended

Adoption  
of calendar  
year.

\* No. 77. † No. 76. ‡ No. 123 in Dominions No. 5. § No. 74. ¶ No. 75. ¶ 35110; not printed.

\*\* NOTE: The second portion, "A," was not sent to the Commonwealth, New Zealand, and Newfoundland.

†† No. 106 in Dominions No. 5.



30th June and the Government state that the staff is too small to admit of a second compilation of the yearly returns to be uniform with those of the United Kingdom.

The countries of "Origin" of imports are given for Australia and South Africa, as far as possible.

The New Zealand Government consider that any attempt to require importers to declare the country of "Origin" of imported goods would only result in imperfect and unreliable information being obtained.

The ultimate destinations of exports, so far as they can be ascertained, are stated to be already recorded in the statistics for South Africa and New Zealand.

An amended classification of articles has recently been brought into operation by the Commonwealth Government. It appears, however, from the list, which closely follows the items of the tariff, that "piece goods" of cotton and linen are still not separately distinguished.

With regard to the South African statistics the Board have had the advantage of personal communication with Mr. Lewis (the Principal of the South African Customs Statistical Bureau) with the result that certain slight amendments have been suggested for the consideration of the Bureau, *e.g.*, the possibility of distinguishing the various items of "Haberdashery" in the import returns—and it is hoped that effect will be given to these as far as possible.

The New Zealand Government state that "every care is taken to give sufficient details," whilst the Newfoundland Government profess their inability to bring their returns more in conformity with those of the United Kingdom until the tariff is revised by a new Revenue Act.

The Australian Government make no comment as regards the summarised classification of articles by groups, whilst the New Zealand Government state that they have no objection to this information being given if it is also given by Canada and Australia. (The Canadian reply had not yet been received.)

The question of a summarised classification of the South African returns is to be referred to the Board of Control (South African Customs Statistical Bureau) for consideration.

The Australian Government state that, in consequence of the amendment of the returns by which quantities will in future be shown as well as values, in connection with the published particulars as to origin of imports, the desired information of the volume of trade under the British preferential tariff will for the future be available.

The New Zealand returns already make the requisite distinction. Those for South Africa for 1907 contain a "Preference Table," but it is apparent that this table includes articles which are *not* entitled to preference—even when of British origin, and it has already been suggested to Mr. Lewis that such non-preferential articles should in future be omitted from the table.

In view of the foregoing it is thought that, should satisfactory replies as regards classification and grouping of articles be received from the Canadian Government, it would be desirable that the following definite suggestions might be submitted to the Governments of Australia and New Zealand for their consideration.

*The Australian Commonwealth Government might be asked:—*

- (1) To distinguish, if possible, between cotton and linen piece goods in their import returns.
- (2) To give a summary table classifying the articles by main groups (foods, raw materials, &c.), distinguishing trade with United Kingdom, British Possessions, and foreign countries, similar to that published in the annual trade returns of the United Kingdom.

*The New Zealand Government might be asked to give a summary table classifying the articles by main groups (foods, raw materials, &c.), distinguishing trade with United Kingdom, British Possessions and foreign countries in the same way.*

The various points raised in connection with the *South African* returns were discussed at the interview with Mr. Lewis (of the South African Statistical Bureau) above adverted to, and a memo. was submitted to him containing suggestions for consideration. A copy of this memo. is appended.

With regard to *Newfoundland*, it would appear that, in view of the remarks made by the Colonial Government, it is not desirable at present to press for any alteration of the trade returns.

The following is a summarised statement of the replies received:—

	Suggestions.				
	Adoption of Calendar Year.	To show "Countries of Origin" of Imports and "Ultimate Destination" of Exports.	To amplify the Classification of Articles.	To summarise the articles by groups and to distinguish trade with United Kingdom, British Possessions, and Foreign Countries.	To show entries under Preferential Tariff.
Australian Commonwealth.	Already adopted.	Imports: Already shown for values. Quantities will be added in future publications. Exports: No comment.	An amended classification of articles was adopted in June, 1908, which closely follows the tariff items. The list is fairly exhaustive but "piece goods" of cotton and linen are not separately distinguished.	No comment	Information will be made available as to "quantities" as well as "values" of articles in future detailed returns.
South Africa.*	"	Already shown as far as possible. It is stated in the Trade Returns issued by the Bureau that the "ultimate destination" cannot always be ascertained and that the mercantile community express "uncompromising disapproval" of the proposed alteration.	Natal considers the list "fairly exhaustive," but the general question of classification is to be referred to Board of Control, &c. (Customs Statistical Bureau) for consideration.	Referred to the Board of Control (Customs Statistical Bureau).	Information now given in returns.
New Zealand.	"	Imports: Countries whence imported shown. Any attempt to require importers to declare the countries of origin of goods would result in imperfect and unreliable information being obtained in the cases of goods not subject to surtax. Exports: Countries of ultimate destination shown so far as can be ascertained.	"Every care taken to give sufficient details."	No objection to giving this summary, but consider it desirable that Canada and Australia should adopt the same course.	Already shown.
Newfoundland.	Year ended June.	Uniformity with the United Kingdom returns cannot be arranged for without an alteration of the Tariff and this cannot take place until a new Revenue Act is passed. The staff is too small to admit of a second compilation of the yearly returns			No preference granted.

\* The South African Trade Returns are prepared by the South African Customs Statistical Bureau.

#### A.

SUGGESTIONS made by the Board of Trade respecting the compilation of the Customs Returns by the South African Customs Statistical Bureau.

#### British South Africa.

It is not possible at present to obtain from the returns for British South Africa Imports the total imports (including Government stores) into British South Africa as a whole either by

- (1) Countries of origin, or
- (2) Descriptions of articles,

for the reason that the requisite details of the imports of *Government stores*, via Delagoa Bay and Beira are not shown (Table 34, page 173).

Detailed particulars respecting Government stores imported via *Cape* and *Natal* are given in the returns for the separate States (Table 20, page 17), but these do not distinguish separately the "Oversea" imports of such stores from stores



removed from one State in the Union to another. The amounts in question are not large, but the fact stated rendered it impossible to use these State figures in amplification of the figures given for British South Africa.

Moreover, the imports of Government Stores into the *Transvaal* and *Rhodesia*, via Delagoa Bay and Beira, distinguishing countries and articles do not appear to be available. Table No. 33 (page 14) gives the imports of Government stores for the inland Governments, but these figures include the value of such stores imported via the maritime Colonies of Cape and Natal.

It is suggested that the difficulty might be met by amplifying the table for British South Africa (No. 34, pages 1-173), so as to make it show the imports of Government stores, via the various routes in the same manner as for private merchandise, *i.e.*,

- (1) by specifying the various articles distinguishing countries of origin, and
- (2) by summarising the countries of origin at the end of the table.

Exports.

The 1907 returns do not show the "Countries of Destination" for total exports (*i.e.*, including re-exported goods) from British South Africa.

The value of the re-exports via Cape and Natal to various countries of destination is available from the State tables in the publication, but the *re-exports* via Delagoa Bay and Beira by countries are not now given. This information was given in the volume for 1906 at the end of the *Transvaal* and Southern Rhodesia export returns. It is suggested that, as in the case of the imports, it might be found possible to amplify the present Table (No. 35, page 56) by giving particulars regarding re-exports via various routes in the same manner as for "South African Produce," *i.e.*,

- (1) by articles, and
- (2) by countries of destination.

If the above suggestions could be adopted, it would then be possible to ascertain the *total value* of any particular article imported into or exported from British South Africa via various routes, and also the *total trade* with any particular country, which information at present cannot be exactly ascertained from the published returns.

Classification of articles.

The classification of the various articles imported into, and exported from, British South Africa is now given in considerable detail—particularly as regards the imports of textiles and machinery—but the value of the returns would be still further enhanced if it could be found practicable to give some details of the principal imports included under the head of "Haberdashery" (the value of which reached 1½ million pounds in 1907).

The quantity of coal imported into British South Africa (Table 34 of the Annual Volume, page 18) is stated to represent tons of 2,000 lbs. In the case of exports (No. 35, pages 7-8) the quantity is simply given in "tons." Judging by the Twelve-Monthly Statement (page 262) these quantities would appear also to represent tons of 2,000 lbs. If this be so, perhaps a note might be appended to the statement of the exports of coal in the annual volume as in the case of imports.

Preference.

A preference statement is given in the preliminary returns (Table No. 33, page 273) showing the value of the articles imported from the United Kingdom and reciprocating Colonies distinguishing various articles accorded preferential rates. It is apparent that the table includes a good many articles which are not accorded preference, and it is assumed that some may also be included under the heading "all other articles of merchandise." It is suggested that the table might be confined to articles that were *actually* imported at preferential rates.

It may be remarked that the total imports from the United Kingdom and reciprocating Colonies given in the preliminary return differ in each case from those given in the annual statement (Table No. 34, page 172), *viz.*—

	United Kingdom.	Canada.	Australia	New Zealand.	Grand Total.
From Preliminary Statement, Table 33, page 284.	£ 14,354,549	£ 373,632	£ 1,886,155	£ 70,211	£ 25,897,347
From Annual Statement, Table 34, page 172.	14,772,435	396,081	1,931,600	71,275	25,897,347

It would appear desirable that some explanation should be given in the volume as to the cause of the above difference.

## State Returns.

Pending federation of the Colonies (if this should come about) it would be an advantage if the imports into each State (including Government stores and specie) according to countries of origin could be ascertained from one table. At present, to obtain the total imports into each State, distinguishing countries of origin, reference has to be made to various parts of the "Annual Statement of Trade, &c.," of British South Africa and to the Twelve-Monthly Statement.

For example, to obtain this information for the *Cape*, reference has to be made for:—

## Merchandise—

Private imported—to Table No. 1, pages 168-9 of Annual Statement.

Inter-State trade, South African produce—to page 438 of Twelve-Monthly Statement.

Government stores—to Table No. 20, page 17 of Annual Statement.

Specie—to page 453 of Twelve-Monthly Statement.

To obtain the total exports by "Countries of Destination" reference has also to be made in the same way to the two publications already mentioned.

With regard to the inter-State trade it would save reference to the Twelve-Monthly Statement if the trade between the *various States* within the Union could be specified in the annual volume, especially as in some instances it has been observed that the totals in the Twelve-Monthly Statement have been slightly revised in the Annual Volume, *e.g.*,

South African produce imported into Cape—

In Annual Volume (No. 1, page 169), £1,977,214.

In Twelve-Monthly Statement (p. 438), £1,976,417.

43144

No. 79.

CANADA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Copy to Board of Trade, 18 December, 1908. L.F.]

[Answered by No. 80.]

(No. 756.)

MY LORD,

Downing Street, 14 December, 1908.

WITH reference to my predecessor's despatch, "Miscellaneous," of the 30th of July, 1907,\* I have the honour to transmit to Your Excellency, to be laid before your Ministers, the accompanying copy of a statement† which has been prepared by the Board of Trade summarising the replies which have been received from the other self-governing Dominions on the subject of uniformity in the trade statistics of the Empire.

2. I shall be glad to receive an intimation of the views of your Ministers on this question at an early date.

I have, &c.,  
CREWE.

\* No. 106 in Dominions No. 5.

† Enclosure in No. 78, omitting "A."



3684

No. 80.

CANADA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 1 February, 1909.)

[Answered by No. 81.]

(No. 20.)

MY LORD,

Government House, Ottawa, 19 January, 1909.

WITH reference to your Lordship's despatch, No. 756, of the 14th ultimo,\* on the subject of uniformity in the trade statistics of the Empire, I have the honour to enclose copy of an approved Minute of the Privy Council, from which Your Lordship will observe that my responsible advisers are not disposed to accept the suggestions made with the view of promoting such uniformity.

I have, &amp;c.,

GREY.

Enclosure in No. 80.

CERTIFIED COPY of a Report of the Committee of the Privy Council, approved by His Excellency the Governor-General on the 9th January, 1909.

(P.C. 2533. M.)

The Committee of the Privy Council have had under consideration a despatch dated 30th July, 1907, and a further despatch dated 14th December, 1908, from the Right Honourable the Principal Secretary of State for the Colonies, on the subject of greater uniformity in the trade statistics of the Empire.

The Minister of Customs, to whom the said despatches were referred, reports as follows:—

(1) As the fiscal year for the Dominion of Canada ends on the 31st March, it is deemed necessary to present the Trade and Navigation Tables to Parliament annually for the period ending with the fiscal year. It would not, therefore, be feasible to furnish a statistical report of imports and exports by calendar years, except as a special report in addition to the usual annual report for the fiscal year.

(2) It is deemed impracticable to secure reliable information in regard to the countries of consignment of imports (that is the countries of origin), except when the imports are admitted to entry at preferential rates of duty. The countries of origin are now indicated in the Canadian returns for goods admitted at preferential rates of duty.

The ultimate destination of exports is shown in the Canadian entries for export, from the information furnished by the exporters on the export entry papers—so far as can be ascertained at time of shipment. The actual ultimate destination is, however, often unknown to the exporter himself at the date of exportation.

(3) The classification of imports in the Canadian returns comprises some 1,500 items, based on tariff items, as per import classification† submitted herewith. It is considered inexpedient to amplify this classification to any material extent, but it is open to extension in special items of importance.

(4) In order to summarize articles by main groups and to distinguish the trade with the United Kingdom, British Possessions, and Foreign Countries in each such group, it would be necessary to compile a special abstract for the purpose. As it is found necessary that the Trade and Navigation Tables of Canada be continued for the fiscal year in their present form, it is not deemed expedient to issue an abstract thereof in a different grouping for the calendar year.

The Committee, concurring in the report of the Minister of Customs, advise that Your Excellency may be pleased to forward a copy of this Minute, if approved, to the Right Honourable the Principal Secretary of State for the Colonies.

All which is respectfully submitted.

F. K. BENNETTS,

Assistant Clerk of the Privy Council.

\* No. 79.

† Not printed.

6701

No. 81.

CANADA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(No. 133.)

MY LORD,

Downing Street, 3 March, 1909.

I HAVE the honour to acknowledge the receipt of Your Excellency's despatch, No. 20, of the 19th January,\* on the subject of uniformity in the trade statistics of the Empire.

2. I duly communicated a copy of your despatch to the Board of Trade, and I have now to request that you will inform your Ministers of the views of the Board of Trade on the subjects raised in your despatch.

3. The Board recognise that in the circumstances stated by your Government it is not possible for a change to be made in the period for which the Canadian Trade Statistics are at present prepared, and in view of the considerable detail which is now given in the published returns of Canadian exports and imports, they do not suggest that the classification of exports and imports should be further extended.

4. At the same time, the Board regret that the Canadian Government do not find it possible to take the steps which are now taken in this country to secure from importers declarations of the country from which all imported goods are consigned, and to cause import statistics to be published on that basis.

5. The Board consider that there is some misapprehension with regard to the suggestion in the memorandum laid before the Imperial Conference, respecting the summary classification, by main groups, of the import and export returns. The Board do not suggest any alteration in the manner in which the imports and exports are at present classified in the trade returns, nor do they desire that there should be a supplementary classification of the articles in detail in the several groups. Their views would be fully met if your Government could see their way to include in the annual volume a table giving a summary classification of the articles imported and exported, grouped under the heads of Foods, Raw Materials, and Manufactured Articles, and distinguishing in each category the trade with the United Kingdom, British Possessions, and Foreign Countries, such table to relate to the same period as that for which the trade returns are already prepared, viz., a fiscal and not a calendar year.

6. I shall be glad to learn whether your Ministers can accept the suggestion made in the last [preceding] paragraph of this despatch.

I have, &amp;c.,

CREWE.

## VIII.

(Resolution XV.).

Uniformity in Company Law.

24403

No. 82.

NEW ZEALAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 7 July, 1908.)

[Copy to Board of Trade, 17 July, 1908. L.F.]

(No. 38.)

MY LORD,

Government House, Wellington, 23 May, 1908.

I HAVE the honour to acknowledge your predecessor's despatches, Miscellaneous, of the 31st July, and No. 23, of the 26th February last,† on the subject of the desirability of securing greater uniformity in the Company Laws of the Empire.

2. I regret the delay that has occurred in replying to the former despatch, but my Ministers have now sent me a minute to the following effect.

\* No. 80.

† Nos. 127 and 133 in Dominions No. 5.



3. "The existing legislation in this Dominion regarding joint stock companies is contained in 'The Companies Act, 1903,' which repealed and consolidated all previous Acts. In the event of an Act to amend and consolidate the existing Companies Acts (Imperial) being passed by the Imperial Parliament, the Government of this Dominion would be prepared to consider any amendments of the said Companies Act, 1903, which might be necessary to secure uniformity with Imperial Legislation, and meanwhile would be glad to receive any scheme or suggestion tending to uniformity and simplification which the Imperial Government may have to offer."

I have, &c.,  
PLUNKET,  
Governor.

27109

No. 83.

ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 25 July, 1908.)

[Copy to Board of Trade, 25 August, 1908. L.F.]

(No. 95.)

Governor's Office, Bloemfontein,

Orange River Colony, 6 July, 1908.

MY LORD,

WITH reference to your Lordship's despatch, No. 56, of the 23rd May last,\* enclosing copies of a draft Bill to consolidate the Company Law of the United Kingdom, I have the honour to transmit, for your information, copy of a Minute from my Ministers regarding the policy which they consider desirable to adopt in respect to the question of securing greater uniformity in the Company Laws of South Africa.

I have, &c.,  
HAMILTON GOOLD-ADAMS,  
Governor.

Enclosure in No. 83.

Minute No. 5170, dated 30 June, 1908, from Orange River Colony Ministers to Governor.

Ministers have the honour to acknowledge the receipt of Minute No. 114 of the 16th instant from His Excellency the Governor, enclosing copy of a despatch from the Right Honourable the Secretary of State for the Colonies, as well as copies of a draft Bill to consolidate the Company Law of Great Britain. Ministers are of opinion that, in view of the approaching Conference to discuss the possibility of closer union, it would be better to postpone dealing with the question of the codification of Company Laws until it has been ascertained whether joint action by all or most of the South Africa Colonies with regard to this matter is feasible. In the meantime Ministers will give the draft Bill now submitted their earnest consideration.

A. FISCHER.

37977

No. 84.

ORANGE RIVER COLONY.

THE ADMINISTRATOR to THE SECRETARY OF STATE.

(Received 17 October, 1908.)

[Copy to Board of Trade, 24 October, 1908. L.F.]

(No. 164.)

MY LORD,

Governor's Office, Bloemfontein, 28 September, 1908.

I HAVE the honour to transmit to your Lordship, with reference to your

\* No. 141 in Dominions No. 5.

despatch, No. 96 of 18 August last,\* a copy of a minute from Ministers relating to the uniformity of company laws within the Empire.

I have, &c.,  
R. B. ALLASON,  
Administrator.

Enclosure in No. 84.

(Minute No. 5170.)

Prime Minister's Office,

Bloemfontein, Orange River Colony, 26 September, 1908.

Ministers have the honour to acknowledge the receipt of Minute No. 114 of the 17th instant from His Excellency the Administrator enclosing a copy of a despatch from the Right Honourable the Secretary of State for the Colonies on the subject of the uniformity of company laws within the Empire, and to express their sympathy with the views of the New Zealand Government on the subject.

A. FISCHER.

18449

No. 85.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL and GOVERNORS.

[Copy to Board of Trade, January 29, 1909. L.F.]

(Canada. No. 50.)

(Western Australia. No. 10.)

(Australia. No. 30.)

(Tasmania. No. 13.)

(Newfoundland. No. 18.)

(Cape of Good Hope. No. 26.)

(New South Wales. No. 12.)

(New Zealand. No. 20.)

(Victoria. No. 8.)

(Natal. No. 19.)

(Queensland. No. 10.)

(Transvaal. No. 30.)

(South Australia. No. 12.)

(Orange River Colony. No. 16.)

MY LORD,

Downing Street, 25 January, 1909.

SIR,

I HAVE the honour to transmit to [Your Excellency] [you], for the information of your Ministers, the accompanying copies of an Act† (8 Edward 7, Ch. 12) of the Imperial Parliament, entitled an Act to amend the Law with respect to the Holding of Land by Companies Incorporated in British Possessions.

2. I have to explain that under the English Mortmain Acts a corporate body cannot hold land in England except with a licence in mortmain from the Crown. To this general rule there are several exceptions, one being that made by the 18th section of the Companies Act, 1862, which confers on trading companies registered in the United Kingdom the power of holding land. The effect of this section is to exempt trading companies registered in the United Kingdom from the operations of the Mortmain Acts.

3. Every trading company registered outside the United Kingdom is under the disabilities imposed by the Mortmain Acts, and has to obtain a licence from the Secretary of State for the Home Department (at a cost of about £70) with regard to each interest in land, freehold or leasehold, which it may wish to acquire.

4. By the Act of which copies are now enclosed trading companies registered in a British Possession and having a place of business in the United Kingdom are placed on the same footing with regard to the Mortmain Acts as trading companies registered in the United Kingdom.

I have, &c.,  
CREWE.

\* 24403: not printed.

† Not printed.



No. 86.

## THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

[Copy to Board of Trade, 13 February, 1909.]

- |                            |                                   |
|----------------------------|-----------------------------------|
| (1. Canada. No. 91.)       | (5. Cape. No. 42.)                |
| (2. Newfoundland. No. 23.) | (6. Natal. No. 32.)               |
| (3. Australia. No. 55.)    | (7. Transvaal. No. 49.)           |
| (4. New Zealand. No. 34.)  | (8. Orange River Colony. No. 25.) |

MY LORD,

SIR,

Downing Street, 12 February, 1909.

WITH reference to my despatches [(1. No. 280), (2. No. 76), (3. No. 165), (4. No. 82), of the 22nd of May last\*] [(5. No. 94), (6. No. 80), (7. No. 130), (8. No. 56), of the 23rd of May last\*] and No. [364†], [93†], [207†], [114†], [117†], [102†], [163†], [73†], of the 23rd of June last, I have the honour to transmit to [Your Excellency] [you], for the information of your Ministers, the accompanying copies of an Act (8 Edward 7, Ch. 69), of the Imperial Parliament, entitled the Companies (Consolidation) Act, 1908.

[Paragraphs 2 and 3 to Australia only. 2. I have also sent copies of this Act to the Governors of the States.

3. As stated in my despatch of 22nd May,\* I shall be glad to receive a copy of the Bill dealing with Company law, which it is proposed to introduce into the Commonwealth Parliament as soon as a draft is available.]

I have, &c.,  
CREWE.

3869

No. 87.

## THE SECRETARY OF STATE to THE GOVERNORS.

[Copy to Board of Trade, 13 February, 1909.]

- |                               |                                 |
|-------------------------------|---------------------------------|
| (1. New South Wales. No. 28.) | (4. South Australia. No. 22.)   |
| (2. Victoria. No. 13.)        | (5. Western Australia. No. 15.) |
| (3. Queensland. No. 16.)      | (6. Tasmania. No. 19.)          |

MY LORD,

SIR,

Downing Street, 12 February, 1909.

WITH reference to my despatch [1. No. 54] [2. No. 33] [3. No. 40] [4. No. 34] [5. No. 26] [6. No. 24], of the 23rd June last, § on the subject of the uniformity of company legislation throughout the Empire, I have the honour to transmit to you, for the information of your Ministers, the accompanying copy of an Act (8 Edward 7, Ch. 69), entitled the Companies (Consolidation) Act, 1908.

I have, &c.,  
CREWE.

## IX.

## (Resolution XVI.)

## Reciprocity in the Admission of Surveyors to practise.

30233

No. 88.

CANADA.

## THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(No. 636.)

MY LORD,

Downing Street, 20 October, 1908.

I HAVE the honour to request Your Excellency to inform your Ministers that I should be much obliged if I could receive a reply, at their earliest convenience,

\* No. 141 in Dominions No. 5. † No. 145 in Dominions No. 5. ‡ No. 146 in Dominions No. 5.  
§ Nos. 145 and 146 in Dominions No. 5.

to my predecessor's despatch, No. 184, of the 8th of April last,\* on the subject of the proposal to establish reciprocity between the several parts of the British Empire in matters connected with the examination and authorisation of surveyors.

2. I shall be glad if you will explain to your Ministers that the information desired from the Provincial Governments is required at an early date, as all the other Governments to which similar despatches were addressed have now sent replies, and I am anxious to make some progress, if possible, in giving effect to the 16th Resolution of the Colonial Conference of 1907.

I have, &c.,  
CREWE.

30233

No. 89.

## THE SECRETARY OF STATE to THE GOVERNORS AND GOVERNOR-GENERAL.

- |                                    |   |
|------------------------------------|---|
| (1. New Zealand. No. 173.)         | (8. Victoria. No. 70.)                    |
| (2. Cape of Good Hope. No. 227.)   | (9. Queensland. No. 67.)                  |
| (3. Natal. No. 186.)               | (10. South Australia. No. 61.)            |
| (4. Transvaal. No. 319.)           | (11. Western Australia. No. 51.)          |
| (5. Orange River Colony. No. 127.) | (12. Tasmania. No. 52.)                   |
| (6. Newfoundland. No. 153.)        | (13. Commonwealth of Australia. No. 362.) |
| (7. New South Wales. No. 91.)      |   |

MY LORD,

SIR,

Downing Street, 20 October, 1908.

WITH reference to your despatch† [1. No. 51 of the 3rd July last], [2. No. 117 of the 9th June last], [3. No. 89 of the 23rd May last], [4. No. 225 of the 20th July last], [5. No. 86 of the 22nd June last], [6. No. 85 of the 6th July last], [7. No. 59 of the 13th July last], [8. No. 45 of the 2nd June last], [9. No. 37 of the 29th June last], [10. No. 23 of the 4th June last], [11. No. 17 of the 22nd June last], [12. No. 20 of the 12th June last], I have the honour to forward, for the information of your Ministers, copy of a despatch‡ which I have addressed to the Governor-General of Canada on the question of reciprocity in the admission of surveyors between the several parts of the British Empire, which was discussed at the Colonial Conference.

[2. To Commonwealth only: I also enclose, for convenience of reference, copies of my predecessor's despatch of 8th April last,\* which is mentioned in the enclosed despatch.]

I have, &c.,  
CREWE.

## X.

## (Resolution XIX.)

## Naturalization.

38649

No. 90.

## THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

- |                          |                                 |
|--------------------------|---------------------------------|
| (Canada. No. 678.)       | (Cape of Good Hope. No. 245.)   |
| (Australia. No. 386.)    | (Natal. No. 205.)               |
| (Newfoundland. No. 167.) | (Transvaal. No. 372.)           |
| (New Zealand. No. 188.)  | (Orange River Colony. No. 141.) |

MY LORD,

SIR,

Downing Street, 9 November, 1908.

IN the nineteenth resolution of the Colonial Conference of 1907 it was laid

\* No. 147 in Dominions No. 5.

† Not printed.

‡ No. 88.



down "that, with a view to attain unanimity so far as practicable, an enquiry should be held to consider further the question of naturalisation, and in particular to consider how far, and under what conditions, naturalisation in one part of His Majesty's Dominions should be effective in other parts of those Dominions, a subsidiary Conference to be held, if necessary, under the terms of the resolution adopted by the Conference on the 20th of April last."

2. In accordance with this resolution, His Majesty's Government have given further consideration to the draft Bill which was laid before the Colonial Conference, and which was discussed at that Conference (see pages 178, 182, and 533 *et seq.* of [Cd. 3523]), and I have now to enclose, for the information of your Ministers, the accompanying copy of a report\* drawn up by an Inter-Departmental Committee, on which Sir M. Chalmers, K.C.B., C.S.I., represented the Home Office and acted as Chairman of the Committee; Mr. W. R. D. Maycock, C.M.G., represented the Foreign Office; Mr. S. G. Sale, represented the India Office; and Mr. H. W. Just, C.B., C.M.G., Secretary to the Imperial Conference, represented the Colonial Office, with Mr. W. A. Robinson, of the Colonial Office, as Secretary.

3. It will be seen that the Committee have suggested in several points means of obviating the objections which were raised in the course of the discussion at the Colonial Conference.

4. I shall be glad if your Ministers will give careful consideration to the report of the Committee and to the suggested amendments to the Bill, and will, if they see no objection, authorise [(to Canada and New Zealand) the High Commissioner] [(to Cape, Natal, Transvaal, Orange River Colony) the Agent-General] [(to the Commonwealth of Australia) Captain R. Muirhead Collins, C.M.G.] [(to Newfoundland) some representative of the Government] to discuss the question with the members of the Inter-Departmental Committee as representing His Majesty's Government, with the view, if possible, of arriving at a final agreement as to the terms of the draft Bill.

5. A similar despatch has been addressed to the other Dominions concerned.

I have, &c.,  
CREWE.

# XI.

## Naval Defence: Australia and New Zealand.

14055

No. 91.

NEW ZEALAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 21 April, 1908.)

(No. 14.)

Government House, Wellington, 17 March, 1908.

[Printed as No. 21 in [Cd. 4325], October, 1908.]

14055

No. 92.

NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR.

(No. 66.)

Downing Street, 30 April, 1908.

[Printed as No. 25 in [Cd. 4325], October, 1908.]

\* Miscellaneous No. 222.

19407

No. 93.

NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR.

(No. 91.)

Downing Street, 29 May, 1908.

[Printed as No. 28 in [Cd. 4325], October, 1908.]

20300

No. 94.

AUSTRALIA.

COLONIAL OFFICE to ADMIRALTY.

[Answered by No. 35 in [Cd. 4325].]

SIR,

Downing Street, 11 August, 1908.

WITH reference to your letter of 4th June last,\* I am directed by the Secretary of State for the Colonies to request you to draw the attention of the Lords Commissioners of the Admiralty to a telegram which appears in the "Times," of the 11th instant, stating that Mr. Deakin had, in a public speech, expressed the hope "that he would soon receive the draft of the Admiralty's Naval Scheme, prepared in accordance with what they believed to be Australian desires, in order to enable the Defence Bill to be passed before the end of the present year."

2. As the next session of the Commonwealth Parliament begins in September, the Secretary of State trusts that their Lordships will very shortly be able to forward the scheme promised in the penultimate paragraph of your letter of 29th May last.†

I am, &c.,  
C. P. LUCAS.

30456

No. 95.

AUSTRALIA.

ADMIRALTY to COLONIAL OFFICE.

(Received 21 August, 1908.)

[Answered by No. 98.]

Admiralty, 20 August, 1908.

[Printed as No. 35 in [Cd. 4325], October, 1908.]

30456

No. 96.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Copy to Admiralty, 25 August, 1908. L.F.]

(No. 288.)

Downing Street, 21 August, 1908.

[Printed as No. 36 in [Cd. 4325], October, 1908.]

\* 20300 : not printed.

† No. 175 in Dominions No. 5.



30456

No. 97.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

(Sent 4.35 p.m., 24 August, 1908.)

TELEGRAM.

[Copy to Admiralty, 25 August, 1908. L.F.]

[Printed as No. 37 in [Cd. 4325], October, 1908.]

30456

No. 98.

AUSTRALIA.

COLONIAL OFFICE to ADMIRALTY.

[Answered by No. 99.]

SIR,

Downing Street, 7 September, 1908.

I AM directed by the Secretary of State for the Colonies to acknowledge the receipt of your letter of the 20th of August,\* on the subject of the proposed establishment of a local naval force by the Commonwealth of Australia.

2. As the Lords Commissioners of the Admiralty will have learned from the letter from this Department of the 25th of August,† the Secretary of State has forwarded a copy of your letter under reference to the Governor-General of the Commonwealth of Australia for the consideration of his Ministers.

3. With reference to the fourth paragraph of your letter, the Secretary of State has had under his consideration the question of the legal position of any local naval force maintained at the expense of the Government of the Commonwealth. He gathers that, in the opinion of their Lordships, Mr. Deakin's proposal is that while in the territorial waters of the continent of Australia and of any dependencies that may be under the administration of the Commonwealth Government, or while on the high seas passing from point to point in those territories, the ships and vessels forming the flotilla will be under the undivided control of the Commonwealth Government, but if they go to other places they will then become subject to the directions of the Senior Naval Officer, as representing the Imperial Government. Their Lordships point out that this will not preclude the despatch of the ships on training cruises, arrangements being first made with the Naval Commander-in-Chief as to the programme which the Commonwealth Government wish to be carried out.

4. The Secretary of State does not see any practical objection to the scheme as understood by their Lordships if it is satisfactory to the Commonwealth Government, but, so far as the scheme may rest on a legal theory as to the powers of the Commonwealth Parliament, he is inclined to think that it may require reconsideration.

5. The powers of the Commonwealth Government with regard to naval defence must be gathered from the Commonwealth Constitution Act of 1900, since the powers conferred by the Colonial Naval Defence Act, 28 Vict., cap. 14, are (Section 10) "not to take away or abridge any power vested in or exercisable by a Legislature or Government of any Colony." Under the Constitution Act, Section 51, Sub-section 6, the Commonwealth Parliament has power to legislate with respect to the naval and military defence of the Commonwealth and of the several States. This legislation is, like all other Colonial legislation, subject to the restriction that it must not be repugnant to any Imperial legislation extending to Australia, and that it must not have effect beyond the territorial limits of the Commonwealth, unless such restriction would render the legislation of no effect. (See Attorney-General for Canada v. Cain and Gilhula (1906, A.C. 542, and 22 T.L.R. 757). There is no Imperial legislation bearing on the question, and the Secretary of State is inclined to think that the limitation within territorial waters cannot be assumed in the case of a

\* No. 35 in [Cd. 4325].

† L.F. transmitting copies of Nos. 36 and 37 in [Cd. 4325].

power to legislate for naval defence. This view is supported by the fact that the same section confers upon the Parliament of the Commonwealth powers which undoubtedly extend beyond territorial limits, e.g., fisheries in Australian waters beyond territorial limits, and the relation of the Commonwealth with the islands of the Pacific, and, indeed, their Lordships apparently contemplate that the control of the Commonwealth Government should apply to the vessels of the flotilla while beyond territorial waters if passing from point to point of the Continent of Australia or of any dependencies which may be subject to the administration of the Commonwealth. In practice it would hardly seem possible to hold that the power for legislation of the Commonwealth Parliament did not apply to the Fleet when it paid a visit, for example, to Fiji or other islands of the Western Pacific. If the legal question is raised, the Secretary of State has little doubt that this will be the view adopted by the Government of the Commonwealth of Australia, and there is, of course, no way of satisfying the Government that that view is incorrect, save by taking a case on appeal to the Privy Council, a matter of considerable difficulty and doubt.

6. At the same time it does not appear to the Secretary of State possible to hold the view that commissions issued by the Governor-General on behalf of His Majesty would not be entitled to the fullest recognition in International Law, as conferring upon the officers in question the right to command naval forces in time of war. I am to point out that, under the Imperial Army Act, Colonial contingents are governed by a law of the Colony by which they have been raised, even when operating in conjunction with Imperial forces in foreign countries, and that no question has ever been raised as to the validity of the Colonial commissions issued to the officers of such contingents. The full executive power of His Majesty in the Commonwealth of Australia, so far as it applies to appointments to any office whatsoever, is conferred upon the Governor-General by the terms of the Constitution Act, and by the Letters Patent creating the office of Governor-General, and for purposes of International Law a commission granted by the Governor-General must be deemed to have the same force as a commission granted by His Majesty.

7. The Secretary of State, of course, recognises that it would be essential in time of war that there should be full co-operation between the forces of the Commonwealth and the Imperial Fleet. But the same consideration applies with equal force to the Colonial military forces, and in their case the Army Council have been satisfied with the knowledge that any Colonial Government would certainly not hesitate in time of war to place any forces which might be engaged in war under the control of Imperial officers of higher rank. The Secretary of State does not doubt that the same principle would be adopted in any case of a war in which naval forces were employed, and he considers that, in view of this fact, it would probably be best, if the Commonwealth Government so desire it, to leave to the Commonwealth Government and Parliament the sole control of the Australian flotilla, subject only to the necessary arrangements for the periodical transfer of officers and men from the flotilla to the fleet for training and other purposes, the arrangements for which would, of course, rest with the Admiralty.

8. The Secretary of State would be glad, should it be considered necessary to obtain an opinion from the Law Officers of the Crown on the subject, if the view expressed in this letter can be laid before the Law Officers.

I am, &c.,  
C. P. LUCAS.

33807

No. 99.

AUSTRALIA.

ADMIRALTY to COLONIAL OFFICE.

(Received 16 September, 1908.)

SIR,

Admiralty, 15 September, 1908.

I AM commanded by my Lords Commissioners of the Admiralty to acknowledge the receipt of your letter of the 7th instant, No. 30456,\* in which the Secretary of State makes certain observations upon the legal position of Colonial naval

\* No. 98.



forces in connection with the proposals of the Commonwealth Government for the establishment of a local defence force in particular relations with the Royal Navy.

In reply I am to acquaint you that as these observations touch upon legal questions connected with the proposals of the Commonwealth Government upon which their Lordships propose to obtain the opinion of the Law Officers of the Crown (as to which certain semi-official communication passed earlier in the year), a copy of your letter has been forwarded to the Treasury Solicitor for consideration with other papers.

I am, &c.,  
W. GRAHAM GREENE.

30456

No. 100.

NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR.

(No. 161.)

Downing Street, September 25, 1908.

[Printed as No. 38 in [Cd. 4325], October, 1908.]

35838

No. 101.

NEW ZEALAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 3.15 a.m., October 2, 1908.)

TELEGRAM.

[Printed as No. 39 in [Cd. 4325], October, 1908.]

35838

No. 102.

NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR.

(Sent 5.33 p.m., 2 October, 1908.)

TELEGRAM.

[Printed as No. 40 in [Cd. 4325], October, 1908.]

6763

No. 103.

NEW ZEALAND.

ADMIRALTY to COLONIAL OFFICE.

(Received 25 February, 1909.)

SIR,

Admiralty, 24 February, 1909.

WITH reference to your letter of 6 November last,\* on the subject of the request of the New Zealand Government for the supply of a vessel suitable for training New Zealand boys for a sea life, I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of the Secretary of State, that, being most anxious to assist the Dominion Government to the utmost of their power, they have had the question most carefully considered, and have had reports submitted to them upon the vessels in their possession which might possibly be suitable for the purpose required.

\* 39356 : not printed.

In the first place, they wish to explain that the use of naval ships for housing and training boys was first introduced when the wooden sailing ships of the old fleet of England were being superseded by iron ships propelled by steam machinery. The life of wooden ships is lengthy; and at the time of the change there were a quantity of vessels with their hulls in good condition which would remain in a seaworthy or habitable condition for a long period after their naval use had ceased. The opportunity was taken, therefore, in the middle of the last century to convert the obsolete wooden ships into training establishments, whether sea-going or stationary, both for seaman boys in the Royal Navy and for boys belonging to industrial and other schools, who were intended for a sea life in the Mercantile Marine. These old ships, with a certain amount of expense for upkeep and repair, have continued for half a century to be very suitable for this purpose. They were roomy and commodious, and could easily be fitted for the housing and education of a large number of boys. The supply, however, of these old wooden ships was naturally limited, and most of them have now become worn out and are no longer healthy enough to satisfy modern hygienic requirements.

The iron and steel ships of which modern navies are composed are not suitable in at all the same degree for housing and training boys. Their holds, instead of being practically clear and ready to be turned to any new purpose, are so fitted with the necessary machinery and magazine spaces that the berthing accommodation is barely sufficient for the needs of the crew, and would fall considerably short of what is considered to be essential to health where a number of growing boys are concerned.

In the case of the Royal Navy, it has been found necessary to build barracks on shore to accommodate the seaman boys, and the 10 or 12 boys' training ships which were in full use a few years ago, have, except in the case of one which is temporarily retained, all been abandoned, and their complements transferred to the shore. The same process is gradually going on in the case of the ships lent for use as training establishments for the Mercantile Marine round the coasts of the United Kingdom, and the authorities of many of these establishments are finding it necessary to make provision for their boys on shore.

From these remarks it will be observed that both in the Navy and the Mercantile Marine the use of sea-going training ships has been generally superseded by the preliminary training given in the shore establishments. In the days of masts and sails there was a real use in the training given to boys in the sea-going training ships, but under modern conditions it is found that practical training afloat is better afforded by the performance of actual duties on board the ordinary ships of the Navy or Mercantile Marine than in special training ships. There is, if anything, a disadvantage in congregating large numbers of boys in steamships, where the work of propelling and handling the ship must necessarily be done by the crew.

My Lords have, however, again called for a report upon the old ships at present in reserve, and the only available vessels which are in any way capable, though subject to the disadvantages just stated, of being applied to services such as those required, are certain second-class cruisers of the "Apollo" class, which are now laid up.

These vessels carry complements of from 270 to 280 persons, and are of 3,400 tons or of 3,600 tons displacement, the difference of displacement being due to the fact that in some cases the steel hull is sheathed with wood and the bottom coppered.

They have been stripped of certain metal fittings and they are not at present in a condition in which they could be made use of for sea-going purposes without considerable expense. It has been ascertained that the cost of repairing one of the vessels would be about £12,800, although this amount might be increased if a sheathed ship were selected and her sheathing were found, on docking, to need repair.

In order that these vessels may not only provide quarters for a crew but also for the boys under training, it would be necessary that certain structural alterations should be made; the expense of carrying out these alterations is estimated to be about £1,200, and after they have been carried out the actual number of boys that could be accommodated would not be more than 115 in addition to a suitable crew.

My Lords much regret that the result of their investigations has been so little satisfactory to them in their endeavour to meet the wishes of the New Zealand Government, but they are persuaded that it is fairer to state frankly that they have no doubt that a more suitable vessel could be obtained from the Mercantile Marine. The fact that warships are designed primarily for offensive purposes, and that the



machinery is placed below a protected deck which is at the waterline level, is an obvious reason for the unsuitability of such vessels for use as training ships.

I am to request that you will represent to Lord Crewe that if, after learning their Lordships' view of the matter, the New Zealand Government still desire to have a vessel for use as a seagoing training ship, my Lords will at once do their best to comply with their wishes, and indeed to give whatever assistance may be in their power in the direction—whether of supplying information and advice, or of providing a ship from the Royal Navy for conversion to the use of the Dominion Government.

I am, &c.,  
C. I. THOMAS.

6763

No. 104.

NEW ZEALAND.

THE SECRETARY OF STATE TO THE GOVERNOR.

(No. 47.)

MY LORD,

Downing Street, 26 February, 1909.

WITH reference to my despatch, No. 91, of 29th May last,\* on the subject of the desire of the New Zealand Government to obtain a training vessel, I have the honour to transmit to you, to be laid before your Ministers, copy of a letter† from the Admiralty, giving the results of the careful examination which their Lordships have made of this question.

2. I shall be glad to learn whether, after considering the views of the Lords Commissioners, your Ministers still desire to have a vessel for use as a sea-going training ship.

I have, &c.,  
CREWE.

## XII.

Naval Defence: Cape Colony.

39833

No. 105.

CAPE OF GOOD HOPE.

THE GOVERNOR TO THE SECRETARY OF STATE.

(Received 31 October, 1908.)

(No. 251.)

MY LORD,

Government House, Cape Town, 12 October, 1908.

REFERRING to my despatches, No. 169, of 16th July, and No. 223, of 26th August,‡ on the subject of the Naval Volunteer Act, I transmit a minute from Ministers forwarding a report drawn up by a Board specially appointed for that purpose on the subject of the Naval Volunteer Reserve scheme.

2. I transmit a copy of a letter which I have addressed to the Rear-Admiral Commander-in-Chief on the station on the subject.

I have, &c.,  
WALTER HELY-HUTCHINSON.

Enclosure 1 in No. 105.

MINISTERS TO GOVERNOR.

(Minute No. 1/447.)

Prime Minister's Office, Cape Town, 1 October, 1908.

With reference to His Excellency's minute, No. 507, dated the 8th July, 1908, transmitting copy of despatch, No. 116, of the 19th June, 1908, from the Right

\* No. 28 in [Cd. 4325].

† No. 103.

‡ 28938 and 33498: not printed.

Honourable the Secretary of State for the Colonies on the subject of the Naval Volunteers Bill, and to His Excellency's minute, No. 674, of the 16th instant, forwarding a copy of letter, No. 735, from the Vice-Admiral Commander-in-Chief on the same subject, Ministers have the honour to inform His Excellency the Governor that, in compliance with the request contained in paragraph 4 of the Right Honourable the Secretary of State's despatch quoted above, they deemed it advisable to convene a Board to assist in arranging the necessary details and to provide for the inclusion in the Force of the existing Naval Cadet Corps.

The Board which, through the courtesy of the Vice-Admiral Commander-in-Chief, was presided over by Captain Nicholson, R.N., of H.M.S. "Hermes," went very fully into the subjects laid before it, and Ministers append hereto copies of the proceedings, in which they concur, and trust they may be generally approved of by the Lords Commissioners of the Admiralty.

Ministers also append further particulars, from which it will be seen that the total annual cost of the Force is estimated at £4,307 9s. 0d.

Ministers are of opinion that all accounts in connection with the Corps should be scrutinised and audited as heretofore, and that they be adjusted in terms of Section 5 of the "Naval Volunteers Act, 1908," six copies of which accompany this minute, and that, subsequently, if considered desirable, they be submitted to the Imperial Authorities for information and inspection through whatever channel may be indicated.

Ministers desire to inform His Excellency that the sum of £420 was incurred to the 30th June, 1908, for capitation grant for the half-year ended on that date, and that there are minor incidental items of expenditure in connection with transport for the months of July and August amounting to approximately £10. They beg to request that His Excellency will kindly obtain the sanction of His Majesty's Government to this amount being paid under similar conditions, as no provision was made by this Government on the estimates of expenditure for these services owing to the fact that the general question was then under correspondence.

Ministers have noted with pleasure that the Lords Commissioners of the Admiralty will co-operate and afford such assistance as the circumstances of His Majesty's Naval Service will permit, and they would particularly invite attention to paragraphs 6 and 7 of the accompanying Board proceedings in regard to the formation of companies at other ports and the question of co-operation with the Naval Corps, respectively. As the movement is to a certain extent in an experimental stage they are in full accord with the opinions expressed therein.

Ministers would add, in the interests of the Force, it is desirable that an early settlement may be arrived at, and they venture to hope that the question of a vessel for drill purposes being placed at the disposal of the Division may receive favourable consideration.

JOHN X. MERRIMAN.

## CAPE COLONIAL FORCES.

Proceedings of a Board assembled at Cape Town on the 18th August, 1908, and on certain days subsequent, at the request of the Honourable the Colonial Secretary, for the purpose of formulating a scheme for the reorganisation of the Royal Naval Volunteer Reserve, Cape Colonial Division, and the absorption therein of the Woodstock Naval Cadet Corps.

## President.

Captain D. R. L. Nicholson, R.N., Flag-Captain, H.M.S. "Hermes."

## Members.

Lieutenant-Colonel L. J. Shadwell, Staff Officer, Cape Peninsula Volunteers.  
Commander T. S. Price, R.N.R., Commanding Royal Naval Volunteer Reserve, Cape Colonial Division.

## Attending.

Lieutenant C. F. W. Struben, M.L.A., Royal Naval Volunteer Reserve, C.C.D.  
The Board, having assembled pursuant to order, proceed to deal *seriatim* with the various points enumerated in the Assistant Under-Colonial Secretary's letter,



No. X. 46/10444, dated 17th August, 1908, a copy of which is attached to the proceedings, and is marked "A."

The Board, for greater convenience of reference, have numbered their suggestions so as to correspond with the numbers given to the main points in the letter above quoted.

1. "The Re-organisation of the existing Force with the inclusion therein of the Woodstock Naval Cadets."

As the Royal Naval Volunteer Reserve, Cape Colonial Division, is already organised into three companies, but is at present considerably under its authorised strength, the Board consider that the inclusion into the Division of the Woodstock Naval Cadets to form a Cadet Company in the Division would be a considerable advantage, not only to the Division, but also to the Woodstock Cadets. In view of the fact, however, that the latter Corps was primarily started as a philanthropic institution, and has been, and still is, very largely supported by private subscriptions, it will be necessary to safeguard the philanthropic nature of the existing organisation by leaving to the officers of the Cadet Corps a very free hand in matters of interior economy and organisation, whilst providing for a thorough supervision and control of their naval instruction and training.

The Board, who have questioned Mr. Hornibrook, the present Commanding Officer of the Woodstock Naval Cadet Corps, as to the manner in which youths resident in and about Woodstock are kept out of mischief by being provided with a club room and gymnasium (so that on nights other than drill nights they may be profitably employed), consider that it would be desirable in incorporating this Cadet Corps into a Royal Naval Volunteer Reserve Cadet Company, to observe the following restrictions:—

(a) The Cadet Company should be styled the Woodstock Cadet Company, Royal Naval Volunteer Reserve. The officers of the Cadet Company, when vacancies occur, should be nominated or proposed as heretofore by the Officer Commanding the Cadet Company, subject to the recommendation either of the Royal Naval Volunteer Reserve Committee (a body whose constitution is referred to in Heading 9 of these proceedings), or of the Officer Commanding the Royal Naval Volunteer Reserve, and the Commandant-General, Cape Colonial Forces. The final approval in either case would lie with His Excellency the Governor.

The duties and functions of the officers of the Cadet Company would be confined entirely to the Cadet Company and the officers will not be commissioned unless such officers, on being duly recommended, after passing the necessary qualifying examinations, wished to become commissioned officers (though supernumerary) in the Royal Naval Volunteer Reserve. In the latter case they would be entirely on the same footing as officers in the Military Cadet Corps, who may, under existing Volunteer Regulations, hold commissions in the Cape Colony Volunteer Forces after passing the prescribed examinations.

(b) Boys might be allowed to remain in the Cadet Corps or Company till they have completed 17 years of age; but the moment they reach 18 years of age should *ipso facto* cease to belong to the Cadet Company.

In view of the fact, however, that under existing Regulations youths of the age of 17 can join either the Royal Naval Volunteer Reserve or any of the Military Volunteer Corps, it would be desirable that when boys in the Cadet Company have reached the age of 17 they should be encouraged by the Officer Commanding the Cadet Company to transfer to one of the other Companies of the Royal Naval Volunteer Reserve. Much, however, would depend on the particular boy's physical development, or on whether it would unduly lessen the number of elder boys in the Cadet Company; and the Board think it well to leave the Officer Commanding the Cadet Company the right to retain, if he so wishes, any boy till he has attained 18 years of age. Under Article 32, Admiralty Royal Naval Volunteer Reserve Regulations, it is laid down that, with the exception of buglers, no person is to be enrolled while below the age of 18 without the special consent of the Admiralty. As, however, the average Colonial youth of 17 is fully the equivalent in physical development of the average English youth of 18, and as 17 is the age at which under the existing Regulations a youth may join either the Royal Naval Volunteer Reserve or any of the Military Volunteer Corps, the Board would recommend that in this Colony 17 should remain the age at which youths may be enrolled in the Cape Division, Royal Naval Volunteers.

(c) The Board recommend that the enrolling of boys in the Cadet Company, the administration of the capitation grant of £2 per annum, the clothing, the administration, discipline, and interior economy, &c., be left to the Officer Commanding the Company; but that in the matter of naval instruction and training the company should be under the orders of the Officer Commanding the Division and of the Officer Instructor. To facilitate the naval instruction, the Board consider that it is essential that the Cadet Company should have a separate Chief Petty Officer Instructor, and this is specially provided for in the estimate of expenditure at the end of these proceedings.

(d) Exclusive of officers and of the Chief Petty Officer Instructor the strength of the Cadet Company should not exceed 100.

2. "The Proposed Establishment."

The present maximum establishment of the Cape Division, Royal Naval Volunteer Reserve, is 300, and the present actual strength is about 200.

The Board consider that for the present, at all events, the maximum establishment should not, exclusive of officers and Chief Petty Officer Instructors exceed 240, or three companies of 80.

The establishment they propose, therefore, is as under:—

Officers:—

Commander	...	...	...	...	...	1
Commander Instructor	...	...	...	...	...	1
Paymaster	...	...	...	...	...	1
Assistant Paymaster	...	...	...	...	...	1
Staff Surgeon	...	...	...	...	...	1
Surgeon	...	...	...	...	...	1
Chaplain	...	...	...	...	...	1
Lieutenants	...	...	...	...	...	3
Sub-Lieutenants	...	...	...	...	...	6
						Officers.
						Company

Chief Petty Officers and Shipkeepers:—

Petty Officer Instructors	...	...	...	...	...	3*
Armourer	...	...	...	...	...	1
Chief Petty Officer Steward	...	...	...	...	...	1
Shipkeeper in Charge	...	...	...	...	...	1
Shipkeepers	...	...	...	...	...	5
						27

The 27 enumerated added to the 240, or three companies of 80, make a total strength of 267.

Of this number, the Commander-Instructor and all the chief petty officers and shipkeepers, with the exception of the Chief Petty Officer Steward, are paid and permanent staff. The amounts to be paid to this staff are suggested under Heading 4.

Further development of the Naval Volunteer movement in this Colony will probably necessitate the addition of a naval writer to the permanent staff, at a cost of about £210 per annum.

The permanent staff, therefore, number eleven, and this leaves the strength of the Division for capitation grant purposes at 256.

The capitation grant proposed is £3 per annum for each efficient and 2s. per head for each officer or man who qualifies in his annual musketry course; but £4 per annum till 31st December, 1908.

Up to the present the capitation grant in the Royal Naval Volunteer Reserve and in Infantry Volunteers has been £4 per annum. It has, from the 1st January, 1909, only been reduced to £3, and it is not considered desirable to recommend a higher capitation grant for one corps than another (mounted corps excepted).

It is hoped that with careful management and with a small balance in hand the corps will be able to pay its way on a £3 capitation grant.

\* Viz.:—Two Gunnery Instructors and one Chief Yeoman of Signals.



As it is desirable that the training ship be "moored in the stream," experience may prove that the number of shipkeepers allowed for is insufficient. It is, therefore, quite possible that the money allotted under this head may have at some future date to be increased.

### 3. "Training."

The Board consider that for the efficient training of the Division, there should be a thoroughly competent Officer-Instructor and three Chief Petty Officer-Instructors. At present there is no Officer-Instructor and only one Chief Petty Officer-Instructor. The question of the paid staff will be further considered under Heading 4.

The Royal Naval Volunteer Reserve here already possess a commodious drill hall, but the bulk of their training should be carried out on a ship, which should be moored in Table Bay. The question of the ship is discussed under Heading 5. It suffices to say here that the ship in question should not proceed to sea, but that, if the Admiralty approve, a ship of the type of H.M.S. "Partridge" should be provided as a drill and depot ship.

Sea-training should be given when possible in sea-going ships of His Majesty's navy by allowing batches of men up to 40 or 50 in number to go to sea whenever accommodation can be provided. It would not be possible for very large numbers of the Royal Naval Volunteer Reserve to be absent from their civil employment at one and the same time, nor, on the other hand, could the sea-going ships on this station accommodate large numbers at once.

It is, therefore, suggested that if the naval Commander-in-Chief at Simons Town could notify some time in advance the dates on which, and the periods during which, accommodation could be provided, sea-training in the case of men classed as efficient could be given as suggested in Article 76 of the Admiralty Regulations for the Royal Naval Volunteer Reserve.

As regards the training, apart from sea-training, above alluded to, it is suggested that the synopsis of instruction referred to in Article 75, Admiralty Regulations for the Royal Naval Volunteer Reserve, be adhered to as far as possible. In the article alluded to "Company drill and sufficient battalion drill to enable the men to take part in parades with other forces" is one of the subjects of instruction suggested.

In this connection the Board consider that, while regarding the purely naval instruction as of paramount importance, it should not be lost sight of that the Cape Division Naval Volunteers should, equally with the Infantry Volunteers, be capable of efficiently taking part in any expedition up-country where the assistance of Volunteers is called for.

The Board understand that hitherto the Naval Volunteers in Cape Town have taken part in field firing and manoeuvres with the other Volunteer Forces and are equally proficient in these branches.

The free allowance of ammunition hitherto allowed to the Royal Naval Volunteer Reserve in Cape Town has been one-half of that allowed to Infantry Volunteers. It is considered that the Naval Volunteers should receive the same allowance in future as the Infantry Volunteers, and this is provided for in the estimate of expenditure at the end of these proceedings.

Although it is quite understood by the Governor's minute, No. 507, of the 8th July, 1908, that the Admiralty do not undertake direct responsibility for the administration of the Cape Division, Royal Naval Volunteer Reserve, it is nevertheless presumed that the Admiralty will provide an Officer-Instructor for this Division, and that that officer will be kept in touch with the various directions for the drill and training of the Royal Naval Volunteer Reserve in home waters as may from time to time be issued.

Article 85, Admiralty Regulations, Royal Naval Volunteer Reserve, and Article 85a of the Addenda thereto, lay down certain rates of pay, victualling, travelling expenses, &c., for officers and men of the Royal Naval Volunteer Reserve serving afloat or ashore to improve their efficiency. It is suggested that these conditions equally apply to the Cape Division, Royal Naval Volunteer Reserve.

It is estimated that this item will not exceed £400 per annum for the Cape Town Division, and this item is included in the estimate of expenditure at the end of these proceedings, Appendix "B."

### 4. "Paid Staff."

#### Yearly Salaries.

	£	s.	d.
1 Commanding Instructor	600	0	0
3 Chief Petty Officer Instructors at 11s. 6d. per day or £209 17s. 6d. per annum	629	12	6
1 Armourer (Chief Petty Officer) at 11s. 6d. per day	209	17	6
1 Chief Shipkeeper at 8s. per day	146	0	0
5 Shipkeepers at 5s. 6d. per day or £100 7s. 6d. per annum	501	17	6
	£2,087	7	6

The above does not include the salary for the Chief Petty Officer-Instructor for the Woodstock Naval Cadet Company. His salary is recommended to be at the same rate as those of the other instructors and has been included in the estimated annual cost of the Woodstock Naval Cadets, *vide* Appendix "C."

The estimated cost of the Royal Naval Volunteer Reserve will be found in Appendix "B."

It will be noted that an annual allowance of £8 per annum for uniform has been made for each Chief Petty Officer-Instructor and for the Armourer.

### 5. "A Ship."

This matter has already been discussed to some extent under Heading 3.

The Board consider the provision of a ship as essential, but they do not think a ship of the type of H.M.S. "Odin" is suitable for several reasons.

In the first instance, if a ship of this type, complete with her engines were provided, her upkeep would amount to a very considerable sum in the course of the year. The space, too, on such a ship for instructional purposes is cramped.

There is no object in having a ship capable of going to sea, as it is quite out of the question the Division embarking as a complete unit on the same ship. Efficient ship-training can be much better obtained by small batches embarking from time to time on sea-going ships of His Majesty's navy.

The Board consider, therefore, that if the Admiralty could spare a ship of the type of H.M.S. "Partridge," from which the engines have been removed, it would be far preferable to having H.M.S. "Odin." The "Partridge" could be moored in Table Bay, and it is believed that a chief shipkeeper with five assistants would suffice to look after her, and they would be able to assist in seamanship instruction.

### 6. "The Formation of Companies at other Ports."

The Committee do not recommend for the present the formation of companies at other ports such as Port Elizabeth or East London. They think it would be advisable to wait and see how far the Cape Division Royal Naval Volunteer Reserve already existing will prove a success once a ship and training staff have been provided and batches of men have proceeded on seagoing ships.

The idea which, it is believed, has hitherto prevailed that other ports in the Colony could with advantage form Royal Naval Volunteer Reserve companies and join in the use of a ship like H.M.S. "Odin" and share in the services of a Naval Instructor does not commend itself to the Board. It would mean that not only would a sea-going ship with an expensive nucleus crew be necessary, but the ship and the Officer-Instructor would have to be away from Cape Town for such prolonged periods that in their absence the training and instruction of the Cape Town companies would languish to a large extent. It seems preferable, therefore, in the first instance to aim at rendering the Cape Town companies of the Royal Naval Volunteer Reserve as efficient as possible rather than to try and superficially train a much larger number at two or more ports.

### 7. "The Question of Co-operation with the Natal Corps."

What has been said above under the Heading 6 largely applies in this case also. The Committee do not consider it possible to co-operate with Natal by



sharing a ship and an Officer-Instructor in common, and this is for the reasons given above.

It would mean that for about six months in each year one corps or the other would be without a drill-ship, or Naval Instructor, and the instruction given would be comparatively uninteresting and unprofitable. For these reasons the Board think that the Cape Division and the Natal Division or Company cannot profitably co-operate.

#### 8. "The Framing of Regulations."

The regulations under which the Cape Division, Royal Naval Volunteer Reserve, have hitherto worked have been Part V. of the Regulations for the Volunteer Force, 1906.

The contents of Part V. have evidently been modelled on the Admiralty Regulations for the Royal Naval Volunteer Reserve. They have hitherto proved sufficient for all practical purposes and the Board do not consider any advantage would be gained (until a training or depôt ship has been supplied and an Officer-Instructor has been secured) in attempting to frame new regulations. It will, doubtless, happen in the course of time that some of the existing regulations will be found inapplicable or will require amending. It is to deal with such matters as these that the standing Royal Naval Volunteer Committee for Cape Colony, the composition of which is explained under Heading 9, has been recommended. Under the Cape Colony Volunteer Regulations members of the Cape Division, Royal Naval Volunteer Reserve, must in the year perform 25 drill attendances, and shoot a minimum of 21 rounds and make 30 points, to earn full capitation grant. The Committee recommend that the present musketry conditions hold good, but that the drill attendances necessary to qualify for capitation grant be those laid down in the Admiralty Regulations for the Royal Naval Volunteer Reserve.

The Committee further recommend that the period for enrolment be for three years, as in the Royal Naval Volunteer Reserve in England.

#### 9. "Royal Naval Volunteer Reserve (Cape Division) Standing Committee."

It is obvious that if the Admiralty consent to the provision of a training or depôt ship and supply an Officer-Instructor and further provide facilities for sea-training to members of the Royal Naval Volunteer Reserve, Cape Division, many questions will arise from time to time for which the present regulations referred to in Heading 8 do not provide.

Some of these questions will probably have to be referred to the Admiralty for decision, but there will inevitably be minor points which could advantageously be settled locally, and even the points which are referred to the Admiralty for decision had better in the first instance be discussed by a Committee over which a naval officer of standing should, if possible, preside, or, failing an officer of sufficient rank, on which a naval officer on the active list should be a member.

The Board recommend therefore that on such standing Committee there should be a naval officer, preferably the flag-captain, or, failing him, one of the commanders of the flag-ship, the Officer Commanding or staff officer, as the case may be, of the Cape Peninsula Volunteers, and the Officer Commanding Cape Division Royal Naval Volunteer Reserve.

Additional officers or private individuals might be asked to attend (as distinguished from joining the Committee) from time to time, as matters may arise on which the Committee might require legal or other expert advice.

The Committee would generally deal with such matters as lie within the province of the Admiralty Volunteer Committee referred to in Article 8, Admiralty Regulations for the Royal Naval Volunteer Reserve.

No salary, office accommodation, or contingent expenses need be provided for such a Committee. The only contingent expenses likely to arise would be minor travelling and detention expenses, which could be met and charged against the Royal Naval Volunteer Reserve, Cape Division, annual expenditure, at the rate at which similar expenses are charged against the Colonial Defence Vote.

This Committee would consider in the first instance all proposals to form outlying companies, such as have been proposed for Port Elizabeth and East London, any matters for which the regulations do not sufficiently provide, and all questions which involve any increased charges (other than those already estimated for) against the Cape Division, Royal Naval Volunteer Reserve, annual expenditure.

This Committee will deal with the Colonial Secretary's Department, Cape Colony.

#### 10. "Allowance of Naval Stores and Naval Ordnance Stores, both Permanent and Consumable."

This is not a subject on which the Board has been specifically asked to record an opinion, but it is essentially one on which a decision must be obtained. At present the Cape Division, Royal Naval Volunteer Reserve, have been armed and equipped by the Cape Colonial Government.

It would appear to the Board advisable, in view of the fact that the expense of the Division is to form a charge against the £50,000 annual contribution to the Royal Navy, that the arms and equipment and all stores and articles of Government equipment on charge should be the property of the Imperial Government, thus entailing that the ammunition issued free and on repayment shall be provided by the Admiralty. As matters stand at present the arms and equipment are not of the naval pattern, no provision is made for the Armourer's tools or any naval stores, and in order to strictly apportion the expense to the Imperial Government of the Cape Division, Royal Naval Volunteer Reserve, it would be necessary to include a yearly charge for depreciation or wear and tear, &c., of the arms and equipment provided by the Colonial Government.

With regard to the armanent given in the Admiralty Regulations as allowable for the Royal Naval Volunteer Reserve, the Committee recommend that the following guns, &c., be provided.

One 6-inch q.f. gun for drill shed.

" 4.7-inch q.f. gun } for ship.

" 4-inch q.f. gun }

" Deflection teacher for drill shed.

" 6-inch q.f. loading teacher for drill shed.

" 4.7-inch " " "

Two 3-pounders.

" Maxims.

Three 12-pounder 8 cwt. field pieces, with limbers and drill ammunition.

There is ample accommodation in the drill hall for the rifles and pistols and also for such of the other guns as it may not be desirable to retain on the training ship, and the annual examination of all stores could, it is presumed, be carried out annually under the orders of the Naval Commander-in-Chief in these waters.

The ammunition, if provided by the Admiralty through the Imperial Ordnance, would cost considerably less than if provided by the Colonial Government, as the latter pay departmental charges, which amount to 10 per cent., and pay for its freight by private ships. Both these charges would be obviated if the Admiralty supplied the ammunition, and the estimates of expenditure under this heading would be proportionately reduced.

#### 11. "Inspection of Royal Naval Volunteer Reserve, Cape Division."

It has been the custom hitherto for the annual inspection of the Royal Naval Volunteer Reserve, Cape Division, to be made by an officer of the Royal Navy—as a rule the captain of the flag-ship. It is recommended that this procedure be adhered to and that this inspection shall count as the Annual Inspection referred to in paragraphs 212 to 220, Volunteer Regulations.

As, however, it is extremely important, not only in the interests of the Royal Naval Volunteer Reserve, Cape Division, themselves, but of the Cape Colonial Government, that the corps should be efficient in its land training and capable of at once taking part in any disturbances up-country, as indicated in the Royal Naval Volunteer Bill lately passed, the Board recommend that the Commandant-General, Cape Colonial Forces, should also inspect the corps when he inspects the Infantry Volunteer Forces of the Cape Peninsula, in order to judge of its comparative efficiency for the purpose above indicated. It might not perhaps be considered expedient to make the attendance at the Commandant-General's inspection obligatory for the earning of capitation grant in the same way as the inspection by the naval officer deputed by the Naval Commander-in-Chief, but if it were intimated that absentees from the Commandant-General's inspection who could not satisfactorily account for their absence would, in the case of volunteers being required for up-country expeditions, have less claim to be chosen than men who have availed themselves of this and other opportunities to manœuvre with the remainder of the brigade, it



would doubtless lead to a very satisfactory muster. The opportunity of seeing service on land is as eagerly sought for by the naval as by the military volunteer.

### 12. "Auditing the Accounts."

It is suggested that the present system of auditing the accounts, scrutinising the railway vouchers issued, and paying the capitation grant and the permanent staff should be adhered to, as an audit by officials on the spot will be more speedy and satisfactory than if the accounts were audited in the first instance by the Admiralty. The accounts, when finally closed and audited, could then, after payment, be submitted to the Admiralty for their information and inspection.

### 13. "Enrolment of Artificers and Artisans."

The Royal Naval Volunteer Reserve, Cape Division, contains a large percentage of artificers and artisans, such as carpenters, electricians, plumbers, &c.

In view of the fact that a modern vessel of war must necessarily carry a large number of artificers and that it is just as important to be able to make good casualties amongst artificers as amongst able seamen, it is extremely desirable that the Cape Division, Royal Naval Volunteer Reserve, should, in enrolling members, give preference to artificers who would be useful on board ship.

Even if the sea-training which it is possible to afford the Cape Division, Royal Naval Volunteer Reserve, does not succeed in providing a large number of men who will be immediately useful as able seamen on board ship, it should, nevertheless, be quite sufficient to enable the artificers in a corps to acquire such a knowledge of board-ship life as to render them of immediate use as ships' artificers.

### 14. "Further Suggestions."

The Board do not consider, with reference to the last paragraph of the Under-Colonial Secretary's letter, No. X./10444, of the 17th August, 1908 (*vide* Appendix "A" of these proceedings), that they are in a position at present to offer any other suggestions in addition to those they have already made.

Signed at Cape Town this 28th day of August, 1908.

D. R. L. NICHOLSON,

Flag-Captain, H.M.S. "Hermes,"

President.

L. J. SHADWELL, Lieutenant-Colonel,  
Staff-Captain, Cape Peninsula  
Volunteers,

T. S. PRICE, Commander, R.N.R.,  
Officer Commanding, Royal  
Naval Volunteer  
Reserve,

Members.

### APPENDIX "A."

No. X. 46/10444.

Colonial Secretary's Office, Cape Town,  
Cape of Good Hope, 17th August, 1908.

ROYAL NAVAL VOLUNTEER RESERVE, CAPE COLONIAL DIVISION.

SIR,

I AM directed to inform you that the main points upon which the Colonial Secretary would be glad to have the opinion and suggestions of the Board are as follows:—

1. The reorganisation of the existing force with the inclusion therein of the Woodstock Naval Cadets.
2. The proposed establishment.
3. Training.
4. Paid staff.
5. A ship.
6. The formation of companies at other ports.
7. The question of co-operation with the Natal Corps.
8. The framing of Regulations.

In addition to the above, the Minister will welcome any other suggestions which the Board may be in a position to make, with a view to ensuring the efficiency and training of the Force.

I have, &c.,

H. B. SHAWE,

Assistant Under-Colonial Secretary.

The President of the Board

on Reorganisation of the

Royal Naval Volunteer Reserve,

Cape Colonial Division.

### APPENDIX "B."

#### ESTIMATED ANNUAL COST OF THE ROYAL NAVAL VOLUNTEER RESERVE, CAPE COLONIAL DIVISION.

##### Staff.

	£	s.	d.
1 Lieutenant or Commander Instructor ... ..	600	0	0
3 Chief Petty Officer-Instructors at 11s. 6d. per diem ...	629	12	6
1 Armourer Chief Petty Officer at 11s. 6d. per diem ...	209	17	6
1 Chief Ship-keeper at 8s. per diem ... ..	146	0	0
5 Ship-keepers at 5s. 6d. per diem ... ..	501	17	6
Allowance in lieu of uniform at £8 each per annum for 4 Chief Petty Officers ... ..	32	0	0

##### Contingencies.

Average annual cost of railway transport ... ..	120	0	0
*Capitation Grant for 256 rank and file at £3 per unit per annum ... ..	768	0	0
Musketry Allowance of 2s. per member per annum ...	20	0	0
Cost of ball ammunition at 200 rounds per man per annum for 256 officers and men at, say, £5 per thousand ... ..	256	0	0
Blank ammunition at 100 rounds per man per annum for 256 men at £3 per thousand ... ..	76	16	0
Sea Training, <i>see</i> Heading 3 ... ..	400	0	0
	£3,760	3	6

### APPENDIX "C."

#### ESTIMATED ANNUAL COST OF THE WOODSTOCK NAVAL CADET COMPANY.

##### Staff.

	£	s.	d.
1 Chief Petty Officer-Instructor at 11s. 6d. per diem ...	209	17	6
Allowance in lieu of uniform ... ..	8	0	0

##### Contingencies.

Capitation Grant for 4 Officers and 100 Cadets at £2 per unit per annum ... ..	208	0	0
Cost of ball ammunition at 150 rounds per man per annum for 104 Officers and Cadets at £5 per thousand ... ..	78	0	0
Blank ammunition at 75 rounds per man per annum at £3 per thousand ... ..	23	8	0
Average annual cost of railway transport ... ..	20	0	0
	£547	5	6

\*£4 per annum till the 31st December, 1908.



Enclosure 2 in No. 105.

The GOVERNOR to the COMMANDER-IN-CHIEF, Simon's Town.

(No. 325.)

SIR,

Government House, Cape Town, 12 October, 1908.

REFERRING to Vice-Admiral Poë's letter, No. 735, of the 11th September, on the subject of the scheme for the reorganisation of the Naval Volunteer Reserve, Cape Colonial Division, I forward for your information a copy of a minute which I have received (on my return to-day from Natal) from Ministers on the subject.

2. I am forwarding a copy of the minute to the Secretary of State for the Colonies and informing him that I presume you will state your views on the subject of the scheme in submitting it to the Admiralty.

3. I should feel much obliged if you would allow me to see a copy of your letter to the Admiralty, or, if you prefer it, favour me with a separate statement of your views upon the subject of the proposals.

I have, &amp;c.,

WALTER HELY-HUTCHINSON.

The Rear-Admiral  
and Commander-in-Chief,  
Simon's Town.

Annexure to No. 105.

PROCLAMATION by His Excellency the Honourable Sir WALTER FRANCIS HELY-HUTCHINSON, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief of His Majesty's Colony of the Cape of Good Hope, and of the Territories and Dependencies thereof, &c., &c., &c.

Whereas by the Eighty-fifth Article of the Ordinance for constituting a Parliament for the Colony of the Cape of Good Hope, it is enacted that the Governor of the said Colony shall cause every Act of the Parliament so constituted, which he shall have assented to in His Majesty's name, to be printed in the "Government Gazette" for general information, and that such publication, by such Governor, of any Act of the said Parliament shall be deemed to be in law the promulgation of the same; Now, I do hereby proclaim, declare, and make known that the Act numbered 14 of the year 1908, printed in this "Gazette," is hereby promulgated.

GOD SAVE THE KING!

Given under my Hand and the Public Seal of the Colony of the Cape of Good Hope  
this 19th day of August, 1908.

WALTER HELY-HUTCHINSON,  
Governor.

By Command of His Excellency the Governor in Council.

JOHN X. MERRIMAN.

No. 337, 1908.

No. 14 of 1908.]

[Promulgated 21st August, 1908.

CAPE OF GOOD HOPE.

Act to enable the Governor to enrol a force of Naval Volunteers.

[Assented to 19th August, 1908.]

Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

1. It shall be lawful for the Governor to enrol within the Colony British subjects to constitute a force to form a Division of the Royal Naval Volunteer Reserve, established under the Statute 3 Edward VII. Chapter 6, and to serve in His Majesty's Royal Navy, within and beyond the territorial limits of the Colony, and either ashore or afloat, and to be liable when on actual service, or when being temporarily borne on the books of any of His Majesty's Ships and Vessels for instruction, training or exercise, afloat or ashore, to all and several the provisions of any Imperial Statutes

relating to Naval Discipline for the time being in force, and to be subject to such regulations and conditions as may from time to time be made and imposed by the Lord High Admiral or the Commissioners for exercising the office of Lord High Admiral, acting under the authority of the Imperial Legislature, or by the Governor under powers assigned to him by His Majesty in Council under the like authority, in respect of the matters following, viz.:—

- (a) The title, constitution, establishment, and organisation of the force, and its general administration;
- (b) Enrolment, duration of service, disbandment, resignation, and retirement of its members;
- (c) Command, precedence, uniform, and decorations;
- (d) Discipline, offences, and punishments in so far as they are not provided for by any Imperial Statute relating to Naval Discipline;
- (e) Calling out for actual service;
- (f) Pay, property, finance, and the appropriation of fines:

Provided that in the event of any Volunteer being sentenced under the Naval Discipline Act or any Regulation made under this Act to a term of penal servitude, or of imprisonment exceeding six months, to be served in any of His Majesty's gaols outside the territorial limits of the South African Colonies he shall, if he so desires, be transferred, as soon as a proper opportunity offers, to one of the gaols or convict stations, as the case may be, in this Colony.

2. All and several the provisions of the law for the time being in force relating to pensions, allowances, gratuities, and the like to ordinary Volunteers shall *mutatis mutandis* apply to Volunteers under this Act.

3. All and several the provisions of sections ninety-seven *et seq.* of the Colonial Forces Act, 1892, shall apply to Volunteers under this Act, their person, property and equipment, and to the public in respect of them respectively.

4. It shall be lawful for the Governor at any time by Proclamation to call out on active service against an enemy or in aid of the civil power in the protection of life and property Volunteers enrolled under this Act, and thereupon and for such period as may be agreed upon by the Governor and the Admiral Commander-in-Chief all Volunteers so called out shall be subject to all the duties and liabilities of Volunteers enrolled under the Colonial Forces Act aforesaid, and, as regards the public, shall be deemed to have been enrolled thereunder.

5. All expenditure incidental to the carrying out of the provisions of this Act and arising therefrom shall in each year be defrayed out of the contribution of £50,000 towards the annual expenditure by the Imperial Government in connection with the Navy, provided for under Acts 20 of 1898 and 14 of 1902, and in so far as the payment of such expenditure is concerned the said Acts shall be read and construed as part of this Act.

6. This Act may be cited as "The Naval Volunteers Act, 1908."

39833

No. 106.

CAPE OF GOOD HOPE.

COLONIAL OFFICE to ADMIRALTY.

SIR,

Downing Street, 18 November, 1908.

WITH reference to the letter from this Department of the 21st of September\* and to previous correspondence, I am directed by the Earl of Crewe to transmit to you, to be laid before the Lords Commissioners of the Admiralty, the accompanying copy of a despatch† from the Governor of the Cape of Good Hope enclosing a report by the Board appointed to consider the Cape Naval Volunteer Reserve scheme.

I am to state that Lord Crewe would be glad to receive the observations of the Lords Commissioners on the recommendations of the Board, at their Lordships' early convenience.

I am, &c.,  
H. W. JUST.

\* 33498: not printed.

† No. 105.



## XIII.

## Stamp Duties upon Colonial Securities.

23326

No. 107.

NEW SOUTH WALES.

COLONIAL OFFICE to TREASURY.

SIR,

Downing Street, 16 July, 1908.

I AM directed by the Earl of Crewe to transmit to you, to be laid before the Lords Commissioners of the Treasury, copy of a despatch\* from the Governor of New South Wales forwarding a resolution, passed at the recent Conference of Premiers in Melbourne, in favour of the abolition of stamp duties upon the issue of Colonial Government securities in this country.

2. In this connection I am to invite attention to the discussion of the matter at the recent Colonial Conference reported at pages 195, 196 of [Cd. 3523].

3. Mr. Kidston, the Premier of Queensland, who is at present in this country, has called at this Office and has urged in favour of the proposal that the raising of money on loan is an essential part of the conduct of Government and that the practice of levying stamp duties on such issues is in effect direct taxation of a Colonial Government by the Imperial Government in the performance of the essential functions of government or, in other words, that it is taxation of the Crown by the Crown. There is no doubt that the levying of the duties is regarded with much disfavour in the Colonies, and Lord Crewe would be glad if their Lordships would give the recommendations of the State Premiers the most careful consideration.

4. Mr. Kidston would be glad to be afforded an opportunity of discussing the matter with the Chancellor of the Exchequer, and I am to ask whether Mr. Lloyd George could grant him an interview. Mr. Kidston leaves London on the 20th instant and will not be again in town until after the 10th of August.

I am, &amp;c.,

C. P. LUCAS.

40723

No. 108.

NEW SOUTH WALES.

THE SECRETARY OF STATE to THE GOVERNOR.

[Copy to Treasury, November 17, 1908. L.F.]

(No. 100.)

SIR,

Downing Street, 13 November, 1908.

WITH reference to my despatch, No. 60, of the 22nd of July,† I have the honour to request that you will inform your Ministers that His Majesty's Government have had under their most careful consideration the recommendation made by the Premiers and Ministers at the late Conference of the State Governments in Melbourne, urging the abolition of Stamp Duties upon issues of all Colonial Government securities.

2. His Majesty's Government have considered the proposal with an anxious desire, as far as possible, to afford assistance to the Governments of the States in the difficulties which they, like the Imperial Government, experience in raising necessary funds at an unfavourable time, and it is with sincere regret that they have come to the conclusion that it is not possible to meet the wishes of the State Governments.

3. The Lord Commissioners of the Treasury desire to point out that there seems to be some misapprehension as to the nature of the duty in question, which is not a duty on the issue of securities, but a composition paid in advance to cover the duty which might become payable hereafter on the transfer of the securities from one holder to another. The duty on transfers of securities is merely a particular case of the Conveyance Duty which the law of the United Kingdom levies on all instruments by which property or any interest in property is transferred to, or vested in, a purchaser, and, unless compounded for, it naturally falls on the

\* No. 212 in Dominions No. 5.

† 23326: not printed.

purchaser. The duty is charged on all such securities, including those issued by foreign or Colonial Governments and those issued by municipal authorities, the only securities exempted being those issued by the Government of the United Kingdom. The composition is quite voluntary and it is open to any Colonial Government to issue a stock without compounding, in which case, of course, the ordinary transfer duty would be paid by the transferee whenever the stock changed hands.

4. The composition duty takes the place of a charge which properly falls upon the transferee, and is not in any sense exacted from the Colonial Governments. It is a matter for the Colonial Governments to consider in each case whether the better price obtained for its stock in such a case—which is paid by the public—is or is not a sufficient compensation for the payment of those duties, and, presumably, no Colonial Government will compound unless it considers that on the whole the transaction is profitable. In effect the net result of remitting the composition duty in the case of Colonial Governments would be to remit taxation which is properly payable on the transfer of securities by persons resident in this country.

5. With regard to the exemption of securities issued by the Government of the United Kingdom and Mr. Wade's observation that the imposition of these duties on the Colonial Governments amounts to the Crown taxing the Crown, it should be pointed out that in the case of British Government stocks there is an obvious reason for the exemption. The Exchequer of the United Kingdom would gain by the proceeds of the taxation levied in respect of those securities, but it would lose through diminished receipts from the loans raised by the issue of the securities. The levy of a tax which can only secure revenue for the Exchequer by diminishing other Exchequer receipts has nothing to recommend it, and the argument can have no application to the case of the Colonies.

6. Even if the objections urged above were not insuperable, the loss of revenue resulting from the concession would be such as to preclude His Majesty's Government in the present financial position from proposing the change to Parliament.

I have, &amp;c.,

CREWE.

40723

No. 109.

THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

[Copy to Treasury, 17 November, 1908. L.F.]

(Canada. No. 680.)	(Tasmania. No. 57.)
(Australia. No. 389.)	(Cape. No. 248.)
(Newfoundland. No. 170.)	(Natal. No. 207.)
(Victoria. No. 75.)	(New Zealand. No. 190.)
(Queensland. No. 72.)	(Transvaal. No. 381.)
(South Australia. No. 72.)	(Orange River Colony. No. 144.)
(Western Australia. No. 56.)	

MY LORD,

SIR,

Downing Street, 13 November, 1908.

WITH reference to the report of the discussion on the question of stamp charges on Colonial bonds, printed at pages 195 and 196 of the Proceedings of the Colonial Conference of 1907,\* I have the honour to transmit to your Excellency, you, for the information of your Ministers, the accompanying copy of correspondence† with the Governor of New South Wales on the subject of the request made by the Conference of Australian State Premiers that Stamp Duties upon the issue of Colonial Government securities should be abolished by the Imperial and Colonial Governments.

I have, &amp;c.,

CREWE.

\* [Cd. 3523], May, 1907.

† No. 212 in Dominions No. 5, and No. 108 in this book.



## XIV.

## Copyright.

20172

No. 110.

COLONIAL OFFICE to BOARD OF TRADE.

[Answered by No. 112.]

SIR,

Downing Street, 10 July, 1902.

I AM directed by the Earl of Crewe to acknowledge the receipt of your letter of the 2nd of June,\* on the subject of the proposed subsidiary conference on copyright.

2. In reply I am to transmit to you, to be laid before the Board of Trade, drafts of despatches† which will be addressed, if the Board so desire, to the Governments of the self-governing dominions.

3. Lord Crewe, however, feels great doubt as to the correctness of the view of the constitutional position taken up by the Board of Trade, and finds it difficult to support the position that copyright should continue to be exceptionally treated as a matter of Imperial control. He has no doubt that the same view will be pressed strongly on His Majesty's Government by the Colonial Governments on the occasion of any conference, and he would, therefore, suggest that, before the enclosed drafts are despatched, the Law Officers of the Crown should be asked whether, if the existing Imperial copyright legislation had not been passed, or were repealed, it would be open to His Majesty's Government to argue that the self-governing Colonies have not an unrestricted right to legislate with regard to copyright within their jurisdiction of works published elsewhere.

4. If the Board of Trade concur in this proposal, Lord Crewe would be glad to see the draft of the proposed reference to the Law Officers.

I am, &c.,  
C. P. LUCAS.

29105

No. 111.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 10 August, 1908.)

[Copy to Board of Trade, 15 August, 1908. L.F.]

[Answered by No. 116.]

(No. 188.)

Commonwealth of Australia,

MY LORD,

Governor-General's Office, Melbourne, 7 July, 1908.

REFERRING to your Lordship's predecessor's despatch, No. 95, dated 20th March last,‡ relative to the International Copyright Conference to be held in Berlin in October next, I have the honour to transmit, herewith, for your Lordship's information, copy of a despatch which has been addressed to me by my Prime Minister upon the subject.

I have, &c.,  
NORTHCOTE,  
Governor-General.

Enclosure in No. 111.

(P.M. 08/2632.)

Commonwealth of Australia, Prime Minister,

MY LORD,

Melbourne, 7 July, 1908.

WITH reference to the Secretary of State for the Colonies' despatch of the 20th March, No. 95, relative to the International Copyright Conference to be held at Berlin in October next, I have the honour to invite Your Excellency to be so good as to inform Lord Crewe that it is not considered advisable to consent to any amendments which might give greater rights to the authors of works

in countries of the Copyright Union than those conferred by Commonwealth law on authors of works produced in Australia; the procedure therefore proposed by the Imperial authorities in regard to the suggested amendments to the existing Convention is acceptable to this Government.

2. In conveying this intimation to the Secretary of State, I shall be pleased if Your Excellency will submit the following observations regarding the suggested amendments:—

## ARTICLE 1.

It is proposed in the definition of "Literary and Artistic Works" to include "œuvres d'art appliqué à l'industrie" and also works of architecture. The first-named are protected in Australia by the Designs Act, 1906. Published plans are subjects of copyright under the Copyright Act, 1905 (see definition of "Book," Section 4), but the Act does not extend to protect the work of architecture itself.

## ARTICLE 2.

In this article it is proposed that, subject to the minimum rights stipulated by the Convention, the extent and duration of copyright is to be governed exclusively by the legislation of the country in which protection is claimed. This proposal conflicts with Section 2 (3) of the International Copyright Act, 1886; otherwise there seems to be no objection to it. It is also proposed that the conditions and formalities in the country of origin alone are to be necessary to copyright throughout the Union. In this connection it is pointed out that, under the Commonwealth Copyright Act, 1905, registration is necessary before owners of copyright in works protected in Australia by Imperial legislation can avail themselves of the remedies provided by the Act.

## ARTICLE 3.

In this article a definition of "publication" is proposed which is not in accordance with English law. Under the definition in the Commonwealth Copyright Act of "publish" in relation to a book, the public representation of a dramatic piece would not amount to publication of the work as a book.

## ARTICLE 4.

In this article it is proposed that the express reservation of the performing right on copies of music should not be necessary. Under the Commonwealth Copyright Act the reservation is necessary.

It is also proposed to give to the author of a book the right to turn it into a drama and *vice versa*. The Commonwealth Copyright gives this right (Section 13).

## ARTICLE 5.

In this article it is proposed that authors shall have an unrestricted right of translation. Under the Commonwealth Copyright Act the owner of the copyright has an exclusive right to authorise translation (Section 13) subject to the provision (Section 30) that if a translation is not made within 10 years the Minister may, after certain notice to the owner of the copyright, grant a permit to make a translation.

## ARTICLE 7.

In this article it is proposed to provide that the author of a musical work shall have the sole right to make reproductions such as perforated sheets, &c., for pianolas, &c. This matter is not expressly dealt with in the Commonwealth Copyright Act, and it is considered that the decisions under English law are applicable.

I have, &c.,  
ALFRED DEAKIN.

Governor-General

His Excellency

The Right Honourable

Lord Northcote, G.C.M.G., G.C.I.E.,

&amp;c., &amp;c., &amp;c.

\* No. 233 in Dominions No. 5. † See Nos. 113 and 114. ‡ No. 226 in Dominions No. 5.



No. 112.

## BOARD OF TRADE to COLONIAL OFFICE.

(Received 20 August, 1908.)

[Answered by L.F. transmitting copy of Nos. 113 and 114.]

Board of Trade (Railway Department), 7, Whitehall Gardens,

SIR,

London, S.W., 20 August, 1908.

WITH reference to your letter (No. 20172/1908), of the 10th ultimo,\* and to unofficial communications which since have passed between officers of the Departments, I am directed by the Board of Trade to state that there appears to be some misconception as to the attitude of this Department with regard to Imperial and Colonial legislation on copyright.

I am accordingly to offer the following observations for the information of the Earl of Crewe:—

(1) The Board of Trade have always attached very great importance to the maintenance of substantial uniformity of legislation with regard to general copyright throughout the Empire. This matter is especially important to British authors from the point of view of our relations with the United States of America, since the Presidential proclamation of March 3rd, 1891, by which British authors obtain the benefit of the Chace Act, rests on an assurance by Lord Salisbury that "the law of copyright in all British Possessions permits to citizens of the United States of America the benefit of copyright on substantially the same basis as to British subjects."

(2) The Board recognise, however, that it would be impossible from a political point of view to make any new law passed by the Imperial Parliament amending the existing Imperial Copyright Act apply to the self-governing Dominions, and that, if any amending legislation is to be undertaken, some other method must be sought for preserving uniformity.

(3) The Board also recognise that it may eventually become impossible or inexpedient to resist the desire of the self-governing Dominions to legislate with regard to the copyright within their jurisdiction of all works wherever published.

(4) Should such a result occur it would appear to be highly desirable in the interests of British authors that it should be preceded, if possible, by some general agreement with the self-governing Dominions as to the lines on which it is expedient that legislation should proceed.

(5) While it is highly improbable that any such agreement could be concluded except by means of a Conference, it seems possible that, as a result of such a Conference, some understanding might be arrived at which would enable His Majesty's Government to meet the wishes of the Colonies without unduly jeopardizing the position of British authors in the United States of America or elsewhere.

(6) With this explanation the Board of Trade trust that the Earl of Crewe will now see his way to propose to the Colonial Governments a Subsidiary Conference in the form of which a draft has already been agreed to by the Board of Trade.

I have, &amp;c.,

G. R. ASKWITH.

20172

No. 113.

## THE SECRETARY OF STATE to THE GOVERNORS-GENERAL AND GOVERNORS.

[Copy to Board of Trade, 7 September, 1908. L.F.]

[Answered by Nos. 118 to 122.]

(Canada. No. 542.)

(Newfoundland. No. 132.)

(Australia. No. 306.)

(Cape of Good Hope. No. 185.)

(New Zealand. No. 149.)

(Natal. No. 157.)

Downing Street,

MY LORD,

[To Australia] 2 September, 1908.

SIR,

[To all others] 3 September, 1908.

WITH reference to my predecessor's despatch, No. [93] [57] [27] [26] [27]

• No. 110.

[18], of 21st February last,\* I have the honour to request you to inform your Ministers that His Majesty's Government have had under their consideration the replies of the various self-governing Dominions to the proposals of the Board of Trade for the enactment of an Imperial Act dealing comprehensively with copyright in the Empire.

2. It appears clear that there is no prospect of any general agreement on this question being arrived at at an early date, and His Majesty's Government have decided to abandon, at any rate for the present, the proposed legislation.

3. There are, however, certain specific points on which an amendment of the existing law is urgently needed, and His Majesty's Government consider that it would be desirable that these amendments—a list† of which is enclosed—should be discussed by a subsidiary conference with a view to concurrent legislation, if agreement can be arrived at.

4. His Majesty's Government would be glad, therefore, if your Ministers would take the matter into their consideration, and intimate whether they are prepared to send a representative to such a conference, which, it is suggested, might with advantage be held in one of the self-governing Dominions, say, at Ottawa.

I have, &c.,  
CREWE.

20172

No. 114.

## THE SECRETARY OF STATE to THE GOVERNORS.

[Copy to Board of Trade, 7 September, 1908. L.F.]

[Answered by Nos. 117 and 124.]

(Transvaal. No. 270.)

(Orange River Colony. No. 108.)

MY LORD,  
SIR,

Downing Street, 3 September, 1908.

I HAVE the honour to transmit to you, for the information of your Ministers, copy of correspondence† noted below on the subject of copyright in the Empire.

2. His Majesty's Government have carefully considered the whole question in view of the replies received from the self-governing Dominions, and as it appears clear that there is no possibility of general agreement on the question being arrived at at an early date, they have decided to abandon, at any rate for the present, the proposed legislation.

3. There are, however, certain specific points on which an amendment of the existing law is urgently needed, and His Majesty's Government consider that it would be desirable that these amendments—a list† of which is enclosed—should be discussed by a subsidiary conference with a view to concurrent legislation if agreement can be arrived at.

4. His Majesty's Government would be glad, therefore, if your Ministers would take the matter into their consideration and intimate whether they are prepared to send a representative to such a conference, which, it is suggested, might with advantage be held in one of the self-governing Dominions, say, at Ottawa.

I have, &c.,  
CREWE.

## SCHEDULE OF ENCLOSURES.

- (1.) Secretary of State. Miscellaneous. 11 January, 1907.
- (2.) The Governor, Newfoundland. No. 57. 8 April, 1907.
- (3.) The Governor, Natal. No. 49. 8 April, 1907.
- (4.) The Governor, New Zealand. Telegram. 11 April, 1907.
- (5.) The Governor, Cape. No. 122. 25 April, 1907.

\* 2829: not printed.

† Enclosure in No. 228 in Dominions No. 5.  
No. 2 in Section XIX. of Miscellaneous No. 195, and Nos. 213-218 and No. 223 in Dominions



- (6.) Secretary of State to Governor, Natal. Miscellaneous. 29 May, 1907.  
 (7.) The Governor, Natal. No. 156. 9 September, 1907.  
 (8.) The Governor-General of Australia. 24th December, 1907.

30426

No. 115.

THE SECRETARY OF STATE TO THE GOVERNORS-GENERAL AND GOVERNORS.

(Sent 2.30 p.m., 14th September, 1908.)

TELEGRAM.

[Copy to Board of Trade, 15 September, 1908. L.F.]

[Answered by Nos. 117 and 120.]

14th September [No. 1]. Referring to my despatch [Canada: No. 542\*] [Newfoundland: No. 132\*] [Australia: No. 306,\* of 2 September] [New Zealand: No. 149\*] [Cape: No. 185\*] [Transvaal: No. 270†] [Orange River Colony: No. 108†] [Natal: No. 157\*] of the 3rd September, Copyright Conference; after further consultation with Board of Trade I should be glad if your Ministers would not regard suggestion made in last few words of that despatch for meeting of Conference in one of self-governing dominions as final. While I would still be glad to see it carried out, if possible, it may be found necessary, for purposes of convenience, to hold Conference, if agreed to, in London.—CREWE.

37813

No. 116.

THE SECRETARY OF STATE TO THE GOVERNORS-GENERAL AND GOVERNORS.

- |                    |                           |
|--------------------|---------------------------|
| (1. Natal.)        | (5. Australia.)           |
| (2. New Zealand.)  | (6. Cape of Good Hope.)   |
| (3. Canada.)       | (7. Transvaal.)           |
| (4. Newfoundland.) | (8. Orange River Colony.) |
- (Confidential.)

MY LORD,

Downing Street, 23 October, 1908.

SIR,

WITH reference to [1. your despatch, No. 68, of 30 April last], [2. my predecessor's despatch, No. 45, of 20 March last], [3. my predecessor's despatch, No. 149, of 20 March last], [4. my predecessor's despatch, No. 43, of 20 March last], [5. your predecessor's despatch, No. 188, of 7 July last], [6. your despatch, No. 89, of 5 May last], [7. your despatch, No. 140, of 11 May last], [8. your despatch, No. 70, of 25 May last], I have the honour to transmit to you,

for the confidential information of your Ministers, the accompanying copies of the instructions which have been issued to the British delegates to the International Conference of the Union for the Protection of Literary and Artistic Works, which is now sitting at Berlin, and of a declaration by His Majesty's Government as to their position with regard to copyright legislation.

I have, &c.,  
CREWE.

Enclosure in No. 116.

Sir EDWARD GREY to Sir H. BERGNE, Mr. ASKWITH, and COUNT DE SALIS.

GENTLEMEN,

Foreign Office, October 9, 1908.

I HAVE appointed you to be the British Delegates to the International Conference of the Union for the Protection of Literary and Artistic Works, which

\* No. 113.

† No. 114.

‡ No. 111.

† No. 230 in Dominions No. 5. § No. 226 in Dominions No. 5. ¶ No. 231 in Dominions No. 5. \*\* No. 232 in Dominions No. 5. †† No. 234 in Dominions No. 5.

is to assemble at Berlin on the 14th instant, and I have to furnish you with the following instructions for your guidance:—

The proposals to be discussed at the Conference are contained in the "Documents Préliminaires" issued by the International Bureau at Berne.

The fifth of the Resolutions passed at the last International Conference at Paris in 1896 was: "Il est désirable que des délibérations de la prochaine Conférence sorte un texte unique de Convention." His Majesty's Government have not yet been able to arrange amendments of the British Copyright Law which would be satisfactory both to the United Kingdom and to the self-governing Colonies, and are therefore not in a position to adhere to a revised text of the Convention, and you should make it clear that, unless and until the United Kingdom shall be in a position to adhere to a revised Convention, her copyright relations with the other countries of the Union shall remain governed by the original Convention of Berne and the Additional Act of Paris. You should, however, take part in the discussion of the amendments with a view to insuring that the revised text shall be in a form which the United Kingdom might accept without reservations.

In considering the wording of the revised text you should make it clear that the provisional acceptance by this country of any stipulations purporting to grant to foreign authors rights not at present recognized by her domestic law is conditional on its being possible to procure their recognition thereby at a later date.

You are further hereby authorized to sign those propositions of the Conference which you can accept within the limit of your instructions, provided that you record a declaration to the effect that the signature is subject to the consideration of the actual text by His Majesty's Government, who will consider themselves free to advise the King to ratify or not within the prescribed time according to circumstances. It must be made clear that His Majesty's Government are not pledged to confirm any arrangement which may be come to.

The King's full power, giving you the necessary authority for this purpose, is sent herewith.

The following observations may now be made as to the course which you should pursue during the deliberations of the Conference:—

The suggested amendments do not include a provision making a definite minimum period of protection obligatory in all countries. His Majesty's Government agree that such a provision would probably be inadvisable at present, but, in view of the stress which is laid in many quarters on the importance of a uniform period of protection in all countries, they are prepared to regard with sympathy any steps tending to realize such uniformity.

Article 2.—With regard to the words, "ainsi que des droits particuliers stipulés par la présente Convention," in the first paragraph, the Delegates in the event of the point arising should make it clear that His Majesty's Government would not be able to support the grant to foreign authors of more extensive rights than those granted or to be granted by English domestic law to British authors under similar circumstances.

To the amendment in paragraph 2 (and Article 1 of the Declaration of the 4th May, 1896) His Majesty's Government see no objection in principle.

The definition of "œuvres publiées" may be accepted, provided a satisfactory understanding can be arrived at with regard to the position of dramatic works, pictures, &c., thereunder, if doubt as to their position should on discussion appear to exist.

His Majesty's Government see no objection to the addition of "the construction of a work of architecture" among the acts which do not constitute publication.

To the new paragraph which it is proposed to add to the end of the Article His Majesty's Government see no objection.

The Delegates should endeavour to obtain the assent of the Conference to a provision that a work first published in a country of the Union shall not be deemed to lose its Union protection by the fact of its having been simultaneously first published in a non-Union country.

Article 3.—No objection.

Article 4. *Œuvres d'Art appliqué à l'Industrie*.—It appears to His Majesty's Government that it would be inadvisable to include such works in the definition, and that it would be preferable to deal with them in a separate Article following the lines of Article 1 b of the Acte Additionnel of Paris relating to photographic works.



With regard to the remaining alterations, His Majesty's Government see no objection.

*Article 5.*—To the proposal to grant translating right for the whole term of copyright, though at present contrary to British law, His Majesty's Government see no objection.

*Article 6.*—No objection. It should be borne in mind that the insertion of translations in the list in Article 4 might tend to derogate from the absolute protection now guaranteed to such works.

*Article 7.*—No objection in principle.

*Article 9.*—It is proposed to repeal the requirement that there should be an express reservation of the rights of public performance printed on musical works. This is at present contrary to the English law, and the Delegates should explain the difficulties which gave rise to the English Act of 1882.

*Article 10 and Article 3 of the Declaration of the 4th May, 1896.*—No objection in principle.

*Article 11.*—It is proposed to omit the paragraph giving the Courts power to require a certificate showing that the formalities required in the country of origin have been performed. His Majesty's Government have no objection.

*Article 14.*—No objection; but provision should be made for the equitable protection of vested interests by an Article corresponding to Article 4 of the Final Protocol to the Berne Convention.

*Article 1 (a) of the Protocole de Clôture.*—His Majesty's Government, while seeing no objection in principle to the proposed inclusion of works of architecture within the full sphere of copyright, are disposed to regard the proposal as impracticable; the Delegates should, however, give careful attention to the arguments advanced in its favour, and, if they think it is practicable, they are authorized to accept it.

*Article 1 (b) of the Protocole de Clôture.*—No objection. The existing English law protects photographs as artistic works.

*Article 2 of the Protocole de Clôture.*—His Majesty's Government see no objection in principle to the grant of copyright to "œuvres chorégraphiques et pantomimes dont l'action dramatique est fixée par écrit." The position of these works under the existing law is very uncertain.

*Article 3 of the Protocole de Clôture.*—It is proposed to make the unlicensed manufacture of gramophone discs, &c., an infringement of copyright, with a provision for a compulsory royalty where such a licence has been issued to anyone. His Majesty's Government see no serious objection to this proposal, which, however, is not in accordance with English law, but would desire that the interest of the Gramophone and similar Companies be protected as far as is consistent with the rights or interests of authors and publishers.

*Article 4 of the Protocole de Clôture.*—No objection.

*French Amendment* (relating to "projections photographiques").—His Majesty's Government see no objection to this proposal, which probably, however, goes to some extent beyond the protection afforded by the existing English law.

The Delegates should bring before the notice of the Conference the desirability of formulating, if possible, an Article prohibiting in general terms the unauthorized reproduction of literary and artistic works by "mechanical" instruments of all kinds.

*Japanese Amendment* (relating to translating right).—His Majesty's Government cannot accept this amendment.

I enclose a form of declaration which you should read at the opening of the Conference in order to make the position of His Majesty's Government clear to the Delegates of the other Powers represented at the meeting.

I am, &c.,  
E. GREY.

#### Declaration.

His Britannic Majesty's Government attach great importance and value to the Convention of Berne and the Additional Act of Paris, and they hope that the result of the present Conference may be a common agreement in regard to amendments which shall be of a nature to perfect the basis of the International Union, and to

render the Conventional stipulations more clear, more simple, and more effectual for the protection of the legitimate rights of intellectual property.

In the firm hope that such a common agreement may be arrived at, His Britannic Majesty's Government have instructed the British Delegates to consider and discuss the proposed amendments which may be submitted to the Conference, in order that, if possible, these may be agreed upon in a shape which His Britannic Majesty's Government can eventually adopt.

It is needful, however, to state clearly that there exist for Great Britain very serious difficulties in connection with the subject of copyright, especially as regards harmonizing the interests of the mother country with those of the great self-governing Colonies.

Unless it should be found possible to remove these difficulties, His Majesty's Government would not probably find themselves in a position to propose to Parliament the legislation which would be necessary in order to give effect to any considerable alterations in the Convention of Berne. Therefore it must be stated at the outset that assent by the British Delegates to any amendment or to a revised text of the Convention does not imply that Great Britain will be able eventually to adhere and give effect to such amendment or revised Convention.

At the same time the British Delegates are authorized to declare that, if the results of this Conference should assume a shape which is considered to be satisfactory for Great Britain, His Majesty's Government will not delay to make a serious effort to come to an understanding with the British Colonies on the subject.

If such an effort should prove to be successful, His Britannic Majesty's Government would then hope to be in a position to propose to Parliament a Project of Law designed to enable Great Britain to adhere to the amended Convention.

It must, however, be clearly understood that, until Great Britain has actually adhered to the revised Convention, her relations with the other Contracting States of the Union in regard to copyright will continue to be governed by the Convention of Berne and by the Additional Act of Paris.

42691

No. 117.

TRANSVAAL.

THE DEPUTY GOVERNOR to THE SECRETARY OF STATE.

(Received 21st November, 1908.)

[Copy to Board of Trade, 27 November, 1908. L.F.]

(No. 390.)

MY LORD,

Governor's Office, Johannesburg, 2nd November, 1908.

WITH reference to your despatch of the 3rd September, No. 270, and telegram of the 14th September, No. 1,\* I have the honour to inform you that the subject of copyright within the Empire is receiving the consideration of my Ministers, who are consulting with the Governments of other South African Colonies relative to the suggestion made.

I have, &c.,

METHUEN,

Deputy Governor.

45670

No. 118.

NATAL.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 12 December, 1908.)

[Copy to Board of Trade, 21 December, 1908. L.F.]

(No. 276.)

MY LORD,

Government House, Pietermaritzburg, Natal,

16th November, 1908.

REFERRING to your Lordship's despatch, No. 157, dated the 3rd September,

\* Nos. 114 and 115.



1908,\* enquiring whether Ministers here would be prepared to send a representative to a conference for the discussion, with a view to concurrent legislation if agreement can be arrived at, of certain specific points on which an amendment of the existing Copyright Law is urgently needed, I have the honour to report that Ministers are proposing to the other South African Colonies that these Colonies should be jointly represented at the proposed conference by Sir Richard Solomon, the Agent-General for the Transvaal, and that I shall inform your Lordship in due course if that proposal is accepted.

I have, &c.,  
M. NATHAN.

46649

No. 119.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE

(Received 21 December, 1908.)

[Copy to Board of Trade, 1 January, 1909. L.F.]

(No. 284.)

MY LORD,

Government House, Cape Town, 30th November, 1908.

I COMMUNICATED to Ministers your Lordship's despatch, No. 185 of the 3rd September,\* on the subject of Imperial Copyright, and received from them the reply of which a copy is enclosed, in which they give their reasons for considering that a conference is not desirable.

2. Before communicating this reply to your Lordship, I thought it advisable to consult the other South African Governments. Your Lordship will see from the enclosed correspondence that the Transvaal are in favour of the conference provided that one representative is appointed for the whole of South Africa, that Natal is of the same opinion, and that no answer has been received from the Orange River Colony.

3. I have now received from my Ministers a further minute, in which they express their disagreement with the Transvaal and adhere to their original opinion.

I have, &c.,  
WALTER HELY-HUTCHINSON.

Enclosure 1 in No. 119.

MINISTERS TO GOVERNOR.

(Minute No. 1/455.)

Prime Minister's Office, Cape Town, 13th October, 1908.

Ministers have the honour to acknowledge the receipt of His Excellency the Governor's Minute, No. 684 of the 22nd September, 1908, on the subject of a proposal advanced by the Imperial Government that certain particular points in the existing Copyright Law should be discussed at a conference between its representatives and delegates from the self-governing Dominions concerned.

Ministers beg to forward for His Excellency's perusal copy of a report by the Attorney-General on the Imperial Government's proposal, and to state that they concur in the views expressed by Mr. Burton.

N. F. DE WAAL.

Attorney-General's Office, Cape Town, 6th October, 1908.

Copyright in the Empire.

REPORT of the Attorney-General:—

I entirely agree with the view expressed by my predecessors, Messrs. Solomon and Innes, that we cannot do anything to hamper the right of this Colony to legislate upon copyright within its own borders. If the proposed "subsidiary con-

\* No. 113.

ference" be held to discuss the specific points referred to and an agreement be arrived at as to the form of concurrent legislation on these points within the Dominions, there would still be the possibility—perhaps probability—of the agreed terms being modified by the respective Colonial Parliaments upon submission to them. It is difficult to see how complete uniformity even of these "specific points" can thus be arrived at, by the holding of the conference. I would suggest that substantial uniformity might be attained if the Imperial Government were to frame actual clauses embodying the points upon which reform by means of uniform legislation is thought to be desirable, and each Colonial Government could then consider such clauses with a view to their adoption in local legislation. This method of procedure would obviate the expense of sending a representative to a conference which might, after all, not result in a satisfactory solution of the question.

HENRY BURTON,

Enclosure 2 in No. 119.

SCHEDULE.

- (1) Telegrams to Governors Transvaal, Orange River Colony, and Natal. Confidential, of 17th October, 1908.
- (2) Despatch from Deputy-Governor Transvaal, No. 67/2/1908, of 2nd November, 1908.
- (3) Despatch from Governor Natal, No. 260, of 16th November, 1908.

(1)

TELEGRAM.

GOVERNOR to GOVERNOR [Transvaal], [Orange River Colony], [Natal].

17th October, 1908. Confidential.

What have your Ministers done about the Secretary of State's proposal that certain points in the Copyright Law should be discussed at a subsidiary conference? My despatch from the Secretary of State on the subject is dated 3rd September, 1908.

(2)

(Transvaal. No. 67/2/1908.)

SIR,

Governor's Office, Johannesburg, 2nd November, 1908.

I HAVE the honour to transmit to you, for the consideration of your Ministers, the document specified in the annexed schedule on the subject of copyright in the Empire.

Copies of this minute have been distributed as indicated therein.

I have, &amp;c.,

METHUEN,

Deputy Governor.

His Excellency

The Administrator of the Cape Colony,  
Cape Town.

Date.	Description of Document.
27th October, 1908 ... ..	Minute No. 627 from Ministers.

(Minute No. 627.)

Prime Minister's Office, Pretoria, 27th October, 1908.

Ministers have the honour to acknowledge the receipt of His Excellency's Minute, No. 67/2/1908 of 24th September, enclosing copy of a despatch from the Secretary of State for the Colonies with reference to the subject of copyright in the Empire.



2. Ministers note that no particular period is suggested at which the proposed subsidiary conference should be held. They are of opinion, however, that there is not sufficient diversity between the interests of this Colony and of the other South African Colonies in the proposed amendment of the Copyright Law of the Imperial Parliament to justify the appointment of a special representative for this Colony at the proposed conference.

3. Ministers would therefore suggest that the Governments of Cape Colony, Natal, and the Orange River Colony, which presumably have received despatches similar to that referred to above, should be approached with a view to its being ascertained whether each of those Governments propose to select a representative at the conference, and if so whether it will consider the advisability of a joint representative of all the South African Colonies being selected to proceed to Ottawa or any other place at which the conference is held.

4. Ministers have the honour to recommend that the Secretary of State be informed that the matter is receiving the consideration of Ministers, who are consulting with the Governments of other South African Colonies relative to the suggestion contained in his despatch.

JACOB DE VILLIERS.

(3)

(Natal. No. 260.)

Government House, Pietermaritzburg, Natal,

16th November, 1908.

SIR,

I HAVE the honour to transmit, for Your Excellency's information, with reference to Despatch No. 67/2 of the 2nd November, 1908, the document specified in the annexed schedule.

Copies of the document have been distributed as indicated therein.

I have, &c.,

M. NATHAN.

His Excellency

The Governor of the Cape Colony,

&c., &c., &c.,

Cape Town.

Date.	Description of Document.
13th November, 1908	Minute No. 13/1908 from Ministers. Proposal that Sir Richard Solomon should represent South Africa at the proposed Copyright Conference.

(Minute No. 13, 1908.)

Prime Minister's Office, Natal, 13th November, 1908.

Ministers have had under consideration the Secretary of State's despatch, No. 157 of the 3rd September, with reference to the subject of copyright within the Empire, and they concur in the proposal made by Your Excellency that arrangements should be made for Natal and the other South African Colonies to be jointly represented at the proposed conference. For this purpose they beg to suggest the name of Sir Richard Solomon, the Agent-General for the Transvaal in London, as a most suitable person to represent the interests of South Africa on this occasion.

I shall feel obliged if Your Excellency will transmit copies of this minute to the Governors of the Cape Colony, Transvaal, and Orange River Colony.

C. O'GRADY GUBBINS

(for Prime Minister).

Enclosure 3 in No. 119.

MINISTERS TO GOVERNOR.

(Minute No. 1/493.)

Prime Minister's Office, Cape Town, 18th November, 1908.

Ministers have the honour to acknowledge the receipt of His Excellency the Governor's Minute, No. 781 of the 6th November, 1908, which enclosed copy of a

Transvaal Minute on the subject of copyright in the Empire, giving the views of the Government of the Transvaal on the proposal advanced by the Secretary of State for the Colonies that an attempt should be made, at a conference, meeting at some date and place not yet decided upon, to reconcile differences in the existing Copyright Law with a view to subsequent concurrent legislation.

Ministers beg to inform His Excellency, with reference to the suggestion put forward by Transvaal Ministers that the South African Governments might perhaps unite in sending a representative to the conference proposed by the Imperial Government, that they have considered this suggestion, but would prefer to adhere to the view expressed in the Minute they addressed to His Excellency on the 13th October, 1908, No. 1/455, when making their reply to the Secretary of State's despatch, No. 185 of the 3rd September.

In that Minute Ministers stated their opinion that "substantial uniformity might be attained if the Imperial Government were to frame actual clauses embodying the points upon which reform by means of uniform legislation is thought to be desirable, and each Colonial Government could then consider such clauses with a view to their adoption in local legislation." It was added that "this method of procedure would obviate the expense of sending a representative to a conference which might, after all, not result in a satisfactory solution of the question."

Ministers enclose a sufficient number of copies of their present communication for distribution among the South African Governments concerned.

JOHN X. MERRIMAN.

47946

No. 120.

NEW ZEALAND.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 31 December, 1908.)

[Copy to Board of Trade, 8 January, 1909. L.F.]

(No. 87.)

MY LORD,

Government House, Wellington, 23rd November, 1908.

I HAVE the honour to acknowledge your Lordship's despatch, No. 149, of the 3rd September last,\* and your telegram of the 14th of that month,† on the subject of copyright legislation.

2. With reference to the last paragraph of your despatch, my Ministers inform me that, in the event of such a Conference as is mentioned being held, the Government of this Dominion would be prepared to send a representative.

I have, &c.,

PLUNKET,

Governor.

2842

No. 121.

CAPE OF GOOD HOPE.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 25 January, 1909.)

[Copy to Board of Trade, 29 January, 1909. L.F.]

(No. 3.)

MY LORD,

Government House, Cape Town, 5th January, 1909.

I HAVE the honour to transmit to your Lordship, in continuation of my despatch, No. 284, of 30th November, 1908,† copy of a despatch, No. 344/1, from the Administrator of the Orange River Colony, on the subject of Imperial Copyright.

I have, &c.,

WALTER HELY-HUTCHINSON.

\* No. 113.

† No. 115.

‡ No. 119.



Enclosure in No. 121.

(Orange River Colony. No. 344/1.)

SIR, Governor's Office, Bloemfontein, 29th December, 1908.  
I HAVE the honour to transmit to Your Excellency, with reference to your despatch, No. 363, of the 9th ultimo, the document specified in the annexed schedule.

His Excellency  
The Governor of the  
Cape Colony, Cape Town.

I have, &c.,  
R. B. ALLASON,  
Administrator.

Date.	Description of Document.
	<i>Copyright within the Empire.</i>
28th December, 1908 ... ..	Minute No. 1377 from Ministers. (Copies of this document have been transmitted to the Governors of the Transvaal and Natal.)

(Minute. No. 1377.)

Prime Minister's Office, Bloemfontein,  
Orange River Colony, 28th December, 1908.

Ministers have the honour to acknowledge the receipt of Minutes No. 344/1, of the 14th and 30th ultimo, enclosing copies of telegraphic correspondence and Minutes by Transvaal and Cape Colony Ministers, regarding the proposed conference on the subject of copyright within the Empire.

Ministers desire to state that they do not consider that the interests of this Colony are sufficiently concerned to warrant incurring the expense of taking part in a conference of this nature. In the event, however, of the other South African Colonies deciding to send a joint representative, Ministers would be prepared to take the matter into consideration, but are of opinion that considerable weight should attach to the views expressed by Cape Ministers in their Minute of the 18th ultimo.

Ministers regret that, on account of the absence of Ministers, there should have been some delay in replying to His Excellency's Minute quoted above.

A. FISCHER.

4343

No. 122.

AUSTRALIA.

THE GOVERNOR-GENERAL TO THE SECRETARY OF STATE.

(Received 6 February, 1909.)

[Copy to Governor-General of Canada (No. 98), and to Governor of Newfoundland (No. 25), 18 February, 1909. L.F. Copy to Board of Trade, 25 February, 1909. L.F.]

(No. 321.)

Governor-General's Office,  
Melbourne, 31st December, 1908.

MY LORD, REFERRING to your Lordship's despatch, No. 306, dated 2nd September last,\* relative to the proposals of the Board of Trade for the enactment of Imperial legislation dealing comprehensively with copyright in the Empire, I have the honour to forward, herewith, copies of memoranda on the subject, prepared by the Federal Attorney-General and the Registrar of Copyrights.

2. His Majesty's Ministers of the Commonwealth have informed me, for your Lordship's information, that Lord Tennyson will represent the Commonwealth at the proposed Conference, and instructions are being issued to His Lordship in accordance with the memoranda referred to above. A number of copies of the

\* No. 113.

Commonwealth Copyright Act are also being forwarded to Lord Tennyson, for distribution amongst members of the Conference.

I have, &c.,  
DUDLEY,  
Governor-General.

Enclosure 1 in No. 122.

## MEMORANDUM OF EXPLANATION OF THE COMMONWEALTH COPYRIGHT ACT, 1905.

The position of the law as regards copyright in Australia at the time of the passing of the Commonwealth Copyright Act was somewhat complicated.

The Imperial Copyright Acts applied as regards literary works first published in Great Britain or in any British Possession or in any foreign country being an adherent to the Berne Convention.

Most, if not all, of the States had Copyright Acts in force, but the State Copyright Acts of one State applied only in relation to works first produced in that State and not to works produced in another State, the latter being regarded as a foreign country. Therefore works produced in one State would enjoy protection in that State under the State law and would enjoy protection in other States by virtue of the Imperial Copyright Acts.

It may be said, therefore, that before the passing of the Commonwealth Act there were six separate copyright areas in existence in Australia in each of which two separate and independent systems of copyright law were in force, viz., the Imperial Copyright Acts and the State Copyright Acts.

The Commonwealth Act could and did succeed in creating one copyright area in Australia in place of the six copyright areas previously existing, and in substituting one system of Commonwealth law in place of the six systems of State law. But it could not get rid entirely of the State laws, as there were many copyrights in existence which had many years to run before falling in, and it could not get rid at all of the Imperial Copyright Acts.

Consequently the Commonwealth Act was so framed—

- (a) that the State systems of law remained in force as regards copyrights existing under those systems;
- (b) that copyrights existing or coming into existence by virtue of the Imperial Copyright Acts were not interfered with; and
- (c) that copyright under the Act was only granted in the case of works first published or produced in Australia.

Copyright in works produced outside Australia continues to subsist in Australia to the same extent and subject to the same conditions as it did before the Commonwealth Copyright Act was passed, and owners of copyright in those works have exactly the same rights and remedies as they would have had if the Act had never been passed.

But the Commonwealth Parliament, although it could not take away or diminish the rights enjoyed in Australia under the Imperial Copyright Acts, could grant additional rights to the owners of the first-mentioned rights.

The Commonwealth Act contained some special remedies which could be simply and expeditiously followed in the case of small infringements of copyright and performing right, and it was thought that these remedies would prove to be exceedingly valuable to all owners of copyrights and performing rights, especially in the case of popular songs and popular musical and dramatical works. Provision was therefore made in the Act by which the owners of any copyright or performing right existing in Australia by virtue of the Imperial Copyright Acts or by virtue of the State Acts could register under the Commonwealth Act and so obtain a right to the special remedies.

This grant was clearly a concession, and no owner need register under the Act unless he chooses to do so. He suffers no disadvantage by not registering—he has still all the rights and remedies given him by the Imperial Copyright Acts or by the State Copyright Acts. But if he wants the additional rights under the Commonwealth Act he can come in and get them by registering under its provisions, and to enable an owner to pursue the special remedies registration is a very essential requirement because it would not be safe to allow some, at least, of the special



remedies unless ownership of the copyright or performing right could promptly and officially be verified.

The position now that the Commonwealth Copyright Act has been passed may be summed up as follows:—

- (a) Literary and artistic works first published or produced in Australia are protected in Australia by the Commonwealth Act.
- (b) Literary and artistic works published or produced in a State before the commencement of the Commonwealth Copyright Act are protected in that State by the State Copyright Act and are protected (as far as literary works are concerned) in other States by the Imperial Copyright Acts.
- (c) Literary (and? artistic works) produced outside Australia are protected in Australia by the Imperial Copyright Acts; and
- (d) The owners of copyrights and performing rights protected in Australia by a State Copyright Act or by the Imperial Copyright Acts can come in and obtain the protection of the Commonwealth Copyright Act so far as remedies for infringement are concerned.

Enclosure 2 in No. 122.

COMMONWEALTH OF AUSTRALIA.

(2420/08.)

Attorney-General.

MINUTE PAPER.

(Trade and Customs. No. 08/15367.)

Subject: Copyright Conference in London—Instructions to Commonwealth Representative.

MEMORANDUM by the ATTORNEY-GENERAL.

A Copyright Conference is to be held in London, and Lord Tennyson is to represent the Commonwealth at the Conference.

The Minister for Customs asks for advice as to the particular matters to which Lord Tennyson should be directed.

A Commonwealth Copyright Act was passed in 1905. This Act is in advance of the legislation of the United Kingdom on the subject and embodies many of the reforms suggested for consideration at the Conference.

With regard to literary copyright, the Commonwealth Act deals with all matters to be discussed at the Conference except—

- (a) the extension of the term of copyright to 30 years (or possibly 50 years) after the end of the year of the author's death;
- (b) the extension of the scope of copyright to include mechanical records of musical works; and
- (c) some of the suggested minor amendments.

With regard to artistic copyright, the Commonwealth Act deals with all the matters suggested except the anomaly arising from the decision in the case of *Graves v. Gorrie* (1903), A.C. 496. A Bill has already been drafted to remove the anomaly referred to, by providing for the enjoyment of copyright in Australia in respect of works of art produced in Great Britain and in British Possessions and foreign countries which make reciprocal provision in the case of works of art produced in Australia.

It is therefore only necessary to deal specifically with the matters (a), (b), and (c) in connection with the subject of literary copyright.

(a) *Extension of the Term of Copyright.*

The Bill on which the Commonwealth Act is founded provided, when introduced into Parliament, that copyright should subsist for the life of the author and for thirty years after the end of the year of the author's death. During the passage of the Bill through Parliament, the extended term met with considerable opposition, and the Bill was amended by making the term the same as the term under the law

in Great Britain. The Commonwealth Parliament in 1905 was therefore not in favour of the extension, and there has been nothing to indicate a change of opinion since. The number of works published, the authors of which would be benefited by the extended term, is small in Great Britain and is probably nil in Australia. Consequently, the matter is of greater relative importance in Great Britain than it is in Australia. I think, therefore, that Lord Tennyson should be instructed not to favour the extended term on the part of Australia.

(b) *Extension of Scope of Copyright to include Mechanical Records of Musical Works.*

I think such an extension is desirable, and that Lord Tennyson should be instructed to favour it on the part of Australia.

(c) *Minor Amendments.*

The nature of the minor amendments to be considered is not indicated. It is, therefore, impossible to say what instructions should be given concerning them. No amendments of the Commonwealth Act in relation to any of the matters mentioned in this connection have been brought under my notice as being desirable.

I would suggest that, in addition to any instructions, Lord Tennyson be provided with a sufficient number of copies of the Commonwealth Copyright Act for distribution to members of the Conference, together with a short explanatory memorandum.

W. M. HUGHES,  
Attorney-General.

10 December, 1908.

4400

No. 123.

TRANSVAAL.

THE DEPUTY GOVERNOR to THE SECRETARY OF STATE.

(Received 6 February, 1909.)

[Copy to Board of Trade, 25 February, 1909. L.F.]

(No. 19.)

MY LORD,

Governor's Office, Johannesburg, 18th January, 1909.

WITH reference to my despatch of the 2nd November, 1908, No. 390,\* I have the honour to enclose, for your consideration, copy of a Minute from Ministers, No. 29, of the 15th January, 1909, on the subject of Copyright in the Empire.

I have, &c.,  
METHUEN,  
Deputy-Governor.

Enclosure in No. 123.

(Minute, No. 29.)

Prime Minister's Office, Pretoria, 15 January, 1909.

Ministers have the honour to refer His Excellency the Deputy-Governor to their Minute, No. 627, of the 27th October, 1908, on the subject of a despatch from the Right Honourable the Secretary of State for the Colonies with regard to Copyright in the Empire.

2. Ministers recognise the importance of an attempt being made to arrive at an agreement on objections raised by certain Colonies to the Copyright Bills which apply to or affect British Colonies.

3. Whilst recognising that the subject-matter of those Bills is of some little importance to the Transvaal, Ministers incline to the same opinion as that held by the Ministers of the Cape Colony, viz., that its difficulties can be more satisfactorily met by the Imperial Government framing and submitting to the several Governments clauses in which would be embodied the points upon which reform by means of



uniform legislation is thought desirable. In the event, however, of that course being considered by His Majesty's Government less desirable than the proposal contained in the despatch of the Right Honourable the Secretary of State, Ministers would be prepared to approach the Governments of other South African Colonies with a view to a joint representative being appointed for the Conference.

4. Ministers regret that delay should have occurred in replying to the despatch of the Secretary of State, but having regard to the objects for which the National Convention has been sitting, Ministers were anxious to obtain the views—of which they are now in possession—of the other Governments of South African Colonies.

JACOB DE VILLIERS.

6354

No. 124.

ORANGE RIVER COLONY.

THE GOVERNOR to THE SECRETARY OF STATE.

(Received 20 February, 1909.)

(No. 15.)

MY LORD,

Governor's Office, Bloemfontein, 1 February, 1909.

WITH reference to your Lordship's despatch, No. 108, of the 3rd of September last,\* relative to the proposed Conference on the subject of copyright within the Empire, I have the honour to inform you that my Ministers do not consider that the interests of this Colony are sufficiently concerned to warrant incurring the expense of taking part in a Conference of this nature. In the event, however, of the other South African Colonies deciding to send a joint representative, Ministers would be prepared to take the matter into consideration, but they are of opinion that considerable weight should be attached to the views expressed by Cape Ministers in their Minute, No. 1/493, of the 18th November,† a copy of which has doubtless been transmitted to your Lordship by the Governor of the Cape Colony.

I have, &c.,

H. GOOLD-ADAMS,

Governor.

XV.

Marriage Facilities.

37961

No. 125.

CANADA.

THE DEPUTY GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 17 October, 1908.)

(No. 408.)

MY LORD,

Government House, Ottawa, 29 September, 1908.

IN reply to Lord Elgin's despatch of the 20th June, 1907,‡ marked "Miscellaneous," asking that the views of the several Provincial Governments might be obtained upon an enclosed memorandum of the Registrar-General with regard to facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom, I have the honour to forward copy of an approved minute of the Privy Council submitting documents containing the desired expression of views.

I have, &c.,

C. FITZPATRICK,

Deputy Governor-General.

\* No. 114.

† Enclosure 3 in No. 119.

‡ No. 262 in Dominions No. 5.

Enclosure in No. 125.

CERTIFIED COPY OF A REPORT of the Committee of the Privy Council, approved by His Excellency the Deputy Governor-General on the 26th September, 1908.

The Committee of the Privy Council have had under consideration a despatch, dated 20th June, 1907, from the Right Honourable the Secretary of State for the Colonies, covering copy of a letter from the Registrar-General with a memorandum and draft of Bill, in the matter of the desire of the Home Government to provide facilities which shall be an improvement on those actually existing for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom.

The Secretary of State, to whom the despatch and enclosure were referred, submits documentary replies in the premises received from nearly all the Provinces of Canada, as set forth in the following numbered clauses:—

- (1) Despatch from His Honour the Lieutenant-Governor of Ontario, dated the 12th March, 1908, covering copy of "An Act Respecting the Solemnization of Marriage." (Sir Mortimer Clark invites particular attention to the concluding paragraph of his communication.)
- (2) Report of the Assistant Attorney-General of Quebec.
- (3) Copy of a letter, under date the 17th of March, 1908, from the Deputy Provincial Secretary of Nova Scotia, enclosing copy of "An Act Respecting the Solemnization of Marriage."
- (4) A letter (in original), under date the 5th of September, 1908, from the Premier of New Brunswick to His Honour the Lieutenant-Governor.
- (5) Copy of a letter, under date the 26th August, 1908, from the Attorney-General of Manitoba.
- (6) Minute (certified copy) of His Honour the Lieutenant-Governor of Saskatchewan in Council, made upon the 16th of July, 1908, to which is attached copy of "An Act to amend the Marriage Ordinance."
- (7) Letter, dated the 16th June, 1908, from the Deputy Provincial Secretary of Alberta to His Honour the Lieutenant-Governor.
- (8) Certified copy of a minute of His Honour the Administrator of the Government of British Columbia in Council, made upon the 17th of June, 1908, approving of a report—of which copy is attached—made in the premises by his Attorney-General.

In addition, His Honour the Lieutenant-Governor of Prince Edward Island has informed the Secretary of State that his Government approves of the contemplated Imperial legislation.

The Committee, on the recommendation of the Secretary of State, advise that Your Excellency may be pleased to transmit a copy hereof, together with the documents above enumerated, to the Right Honourable the Principal Secretary of State for the Colonies.

All which is respectfully submitted for approval.

RODOLPHE BOUDREAU,

Clerk of the Privy Council.

(No. 8522.)

SIR,

Government House, Ontario, Toronto, March 12th, 1908.

I HAVE the honour to refer to your despatch of the 26th ultimo, upon the subject of the desire of the Home Government to provide facilities which shall be an improvement on those actually existing for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom, and to inform you that I am now advised that there is no necessity for such legislation so far as this Province is concerned.

Marriage in Ontario must be upon Ontario licence, certificate, or publication of banns, all within the province. The chief difficulty is the marrying in this province of immigrants from Great Britain who leave lawful wives, and often families, in Great Britain, but who marry again here, and often to women with whom they have had an acquaintance there, both of whom immigrate for the express purpose of marrying here.



Section 7 of the Marriage Act provides for the issuance of a certificate in the form set forth in Schedule C to the Marriage Act, a copy\* of which is enclosed herewith. This is used where a marriage takes place without banns, and where neither of the parties has resided in the country for the 15 days next preceding.

I would invite your attention to the fact that the statement on page 4 of the printed matter covered by your despatch, respecting the Ontario Marriage Law, is not correct. The ceremony is one, and is, at the same time, both a civil and religious ceremony. There is no strictly civil ceremony apart from those authorised by the Act, the State appointing thus as its officers the ordained clergymen and others named in the Act.

I have, &c.,

WM. MORTIMER CLARK

Lieutenant-Governor.

The Honourable

The Secretary of State,  
Ottawa, Ontario.

Department of the Attorney-General, Quebec,

March 6th, 1908.

Report upon a reference of the Honourable the Provincial Secretary of a despatch from the Secretary of State at Ottawa concerning the celebration of marriages between British subjects in England and in the Colonies.

The undersigned has the honour to report as follows:—

The Imperial authorities submit, for an expression of opinion, the draft of a proposed Bill indicating the lines on which they would suggest that legislation should be proceeded with to provide for improved facilities for marriage between British subjects resident in the United Kingdom and those dwelling in the Colonies.

The draft Bill provides as follows:—

1. In the case of an intended marriage in England between a British subject dwelling in England and another dwelling in a British Colony in which notice of marriage can be given, or banns published, and a certificate issued by an authorised officer stating that all legal requirements have been complied with, such certificate should be accepted in England in the same manner as if it had been a certificate issued by the Superintendent Registrar of any district in England.

This first clause does not come into conflict with our laws. As there is no statutory or legal provision in the Province of Quebec for the giving of a notice to or the issue of any such certificate by a civil functionary, there being no civil marriage in this Province, a certificate of the due publication of banns would, under the proposed law, be accepted in England as the equivalent of a certificate of civil notice for marriage.

2. The second part of the proposed Bill would enact that when the necessary arrangements have been made in a British Colony by statute or otherwise, it shall be lawful, in the case of an intended marriage in the Colony, for the party dwelling in England to give notice of marriage in England, and procure a certificate there, which certificate would be accepted in the Colony as authority for the marriage in respect of the party dwelling in England.

Article 132 of the Civil Code of Lower Canada enacts that in the case where one of the contracting parties is domiciled outside of the province, the clergyman who is called upon to solemnize a marriage, when there has been no publication of banns, "is bound to ascertain that there is no legal impediment between the parties." As a matter of course, such certificates as would be delivered under and in virtue of the proposed law, would constitute a very conclusive assurance, as to the officiating clergyman, that there exists no legal impediment between the parties.

The Attorney-General is, therefore, of opinion that, as regards the Province of Quebec, it is not expedient to pass any legislation in the premises.

CHARLES LANCTOT,

Assistant Attorney-General.

\* Not reprinted.

SIR,

Government House, Halifax, Nova Scotia, 17 March, 1908.

I AM directed by the Provincial Secretary to acknowledge the receipt of His Honour's communication of the 4th instant, transmitting a letter from the Under Secretary of State of the 26th ultimo, covering a copy of a despatch from the Right Honourable the Secretary of State for the Colonies to His Excellency the Governor-General, respecting the proposal by the Registrar-General of England for improvements in the facilities for the marriage of British subjects dwelling in the Colonies and British subjects resident in England. The copy of the letter from the Registrar-General covering memorandum and draft Bill respecting the matter were procured from the Librarian of the Legislative Library, as requested in Mr. Pope's letter.

I am to state that in a general sense the Government is in sympathy with the proposals of the Registrar-General, but there appears to be difficulty in applying the same to the existing system of procedure respecting marriages in Nova Scotia. It is proposed that in the case of a marriage in England between a British subject dwelling in that country and a British subject dwelling in a British Colony in which notice of a marriage can be given or banns published, and a certificate issued by an authorized officer stating that the legal requirements have been complied with in accordance with the laws and regulations of such Colony, such certificate shall be accepted as authority for the marriage in England. I am to point out that under the Nova Scotia Solemnization of Marriage Act no provision is made for notice, and with regard to the publication of banns there is no official who could issue the required certificate. If the Registrar-General's proposals were adopted, the whole system respecting marriages by banns in Nova Scotia would have to be changed by authorizing some official to give such certificate, and by providing for the making of such returns respecting the publication of banns as would enable such official to certify to the necessary facts. Under the present system the only return or data of any kind furnished to this Department in respect of a marriage by banns is the marriage register signed by the officiating clergyman, a blank form\* of which is enclosed.

In the case of a marriage in a Colony the Registrar-General proposes in his draft Bill that the party dwelling in England may give notice there, and a certificate thereof shall be accepted in the Colony in which the marriage takes place as authority for the marriage in respect of the party dwelling in England. It seems to be assumed that either banns or licence would still be necessary in respect of the other party dwelling in the Colony. Such licence or banns would, under the Nova Scotia Law, operate in favour of both parties, and be sufficient authority for the marriage. The certificates respecting the party dwelling in England would, therefore, be superfluous. It does not seem to be proposed that, in accordance with the principle mentioned by the Registrar-General in his memorandum as being recognised by France, Italy, and Hungary, notice in England of such an intended marriage should be compulsory.

For the information of those interested I am to enclose a copy of the Solemnization of Marriage Act.\*

I have, &c.,

FRED. F. MATHERS,

Deputy Provincial Secretary.

Alister Fraser, Esquire.

Premier's Office, Fredericton, New Brunswick,

September 5, 1908.

SIR,

WITH regard to the copy of a despatch from the Under Secretary of State requesting the views of your Ministers, with as little delay as possible, on the question of providing facilities which will be an improvement on those actually existing for the marriage of British subjects dwelling in the Colonies and British subjects residing in the United Kingdom, as therein set forth, I beg to say that I have perused the draft of the Bill indicated in the despatch under date of 20th of June last from the Rt. Hon. Secretary of State for the Colonies to His Excellency the Governor-General, and it is the view of the Government, as far as this Province is concerned, that no great necessity exists for the proposed legislation, as very few people from this Province marry in England, and under the laws that exist in New

\* Not reprinted.



Brunswick every facility exists for the solemnization of marriage between persons from Great Britain or any other part of the world with residents of New Brunswick.

As you are well aware, every Christian minister or teacher, duly ordained according to the rites and ceremonies of the denomination to which he belongs, having charge of a congregation in this Province, or connected therewith, Commissioners and Staff Officers of the Salvation Army resident within the province, Jewish Rabbis duly ordained according to the rites and ceremonies of the Jewish Church, having charge of a congregation in the Province or connected therewith, can be authorised to solemnize matrimony.

Marriage can be celebrated after the publication of banns, or by licence. Issuers of marriage licences are appointed in different parts of the Province. If the marriage is by publication of banns, such publication shall be made according to the usage of the denomination of Christians proposing to solemnize the ceremony of marriage.

In the memorandum enclosed, by the Under Secretary of State, it is stated that in New Brunswick no time is stated or how many times banns must be published. As I have just said, however, the banns must be published according to the usage of the denomination by which the marriage is to be solemnized. They shall be made as in England by proclaiming with an audible voice during service publication of banns of such intended marriage in some place of meeting for religious worship in the parish where either of the parties resides. Every marriage in this Province must be solemnized in the presence of two or more witnesses, and a certificate of such marriage must be submitted by the person celebrating it to the Registrar of the division, according to the provisions of the Act respecting the registration of births, deaths, and marriages.

On behalf of the Government of the Province I beg to say that while in its opinion no necessity exists so far as New Brunswick is concerned for the passage of the legislation suggested, no interest in this province would be prejudicially affected by the passage of the proposed Bill.

I have, &c.,

J. D. HAZEN.

Honourable L. J. Tweedie,  
Lieutenant-Governor,  
Chatham, New Brunswick.

SIR,

Winnipeg, Manitoba, August 26, 1908.

I HAVE the honour to return herewith correspondence *re* Marriage Act as requested in your letter of the 25th instant. I beg to say that there does not seem to be any reason for altering the law of Manitoba in this respect.

I would point out that the object sought appears to be the lessening of expense in cases of marriage between British subjects at home and in the Colonies, and, in the statements attached to the correspondence\* herein, Manitoba is especially mentioned as a Province in which the cost is very low, and the formalities very simple.

I have, &c.,

COLIN H. CAMPBELL,

Attorney-General.

Honourable Provincial Secretary.

CERTIFIED COPY OF A MINUTE of the Executive Council of Saskatchewan, dated at Regina on Thursday the Sixteenth Day of July, 1908, and approved by His Honour the Lieutenant-Governor.

The Executive Council has had under consideration a memorandum from the Attorney-General, dated July 15, 1908, upon a despatch from the Hon. the Secretary of State covering a communication addressed by the Registrar-General for England to the Colonial Office on the subject of providing facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom, attached to which communication is a draft of a Bill proposed

\* Not received in Colonial Office.

to be introduced into the Imperial Parliament dealing with the subject, in which the Attorney-General states that since the receipt of the despatch and communications above-mentioned he introduced into the Legislative Assembly of Saskatchewan as an amendment to the Marriage Ordinance a Bill to carry out as far as possible the suggestion made in the communications above-mentioned, and that on the 12th day of June, 1908, the Legislative Assembly passed an Act, which is now in force in this Province, dealing with the subject, a copy of which Act is attached hereto.

The Attorney-General expresses the opinion that it is at present unnecessary that this Province should avail itself of the provisions of Section 2 of the proposed "Marriage with Colonials (Facilities) Act, 1907," and, therefore, this Province is not concerned with any of the provisions of the proposed Act except Section 1, as to which last section it is thought that the Act recently passed will fully meet the suggestion made. The Attorney-General expresses the opinion that the reason the Government of Saskatchewan should not be concerned with the provisions of Section 2 referred to is that under our law there need not be any delay whatever or any inconvenience caused to a resident of the United Kingdom desiring to be married here because under the law as it stands at present a marriage licence may be issued and a marriage take place on the same day without the necessity of any previous residence in the Province; and while giving due consideration to the two essentials of a sound marriage law as laid down by the Royal Commission referred to in the correspondence it is not thought advisable at the present time to place any further safeguards "in the way of sudden and clandestine marriages" than now exists.

The Attorney-General states that as no Marriage Commissioners have been appointed under the provisions of Chapter 17 of the Ordinances of 1901 (to which, as would appear from a memorandum attached to the file, the Registrar-General for England has had access), the only persons authorised to solemnize marriages in this Province at the present time are the ministers and clergymen of every church or religious denomination duly ordained or appointed according to the rites and ceremonies of the churches, denominations, or religious bodies to which they respectively belong, and Commissioners and Staff Officers of the Salvation Army, with the exception that marriages between Quakers and Doukhoborsti may be had under the special provisions contained in Section 5 of Chapter 17 of the Ordinances of 1901.

Upon consideration of the foregoing report, the Executive Council advises that a copy of this minute, based thereon, when approved, be forwarded to the Honourable the Secretary of State for transmission to the Colonial Office for the information of the Registrar-General for England.

JOHN A. REID,

Clerk of the Executive Council.

1908.

AN ACT to amend the Marriage Ordinance.

(Assented to June 12, 1908.)

His Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:—

1. Section 3 of the Marriage Ordinance is hereby amended by adding thereto the following:—

"(2) A certificate of the due publication of banns as provided in this section shall be furnished by the person publishing the banns on the application of either party to the intended marriage and on payment of the fee of fifty cents therefor; such certificate may be in Form G in the schedule to this Act.

"(2) The said section is further amended by striking out all the words after the word "banns" in the eighth line thereof and substituting therefor the words 'at least once on each of two Sundays in some public religious assembly.'"



## "FORM G.

"Canada.  
"Province of Saskatchewan.  
"To wit:

"I, \_\_\_\_\_ of the \_\_\_\_\_ in the Province of Saskatchewan, do hereby certify that banns of an intended marriage between \_\_\_\_\_ of the \_\_\_\_\_ in the \_\_\_\_\_ of the \_\_\_\_\_, were duly published by \_\_\_\_\_ of \_\_\_\_\_, in accordance with the provisions of the Marriage Act of the Province of Saskatchewan."

(H.W.R./B.B.)

Provincial Secretary's Department Edmonton, Alberta,

June 16, 1908.

SIR, I HAVE the honour by direction to acknowledge receipt of Mr. Secretary Babbitt's letter of the 18th ultimo with enclosure from the Under Secretary of State, having reference to the adoption by your Government of legislation to provide improved facilities for the solemnization of marriage between British subjects resident in the Colonies, and those dwelling in the United Kingdom.

I am directed, in reply, to advise your Honour that your Ministers have given the matter their thoughtful consideration, and it is expected that legislation will be enacted at the next session of the Legislature which will provide, so far as Alberta is concerned, the improved facilities outlined in the draft Bill prepared by the Registrar-General.

I have, &amp;c.,

HAROLD W. RILEY,

Deputy Provincial Secretary.

Hon. G. H. V. Bulyea,  
Lieutenant-Governor,  
Edmonton.

## BRITISH COLUMBIA.

COPY OF A REPORT of a Committee of the Honourable the Executive Council, approved by His Honour the Administrator on the 17th day of June, A.D. 1908.

The Committee of Council have had before them a report, dated 16th June, 1908, from the Attorney-General made in response to a request conveyed in a despatch of the 20th of June, 1907, of the Right Honourable the Secretary of State for the Colonies, for an expression of the views of this Government on the questions raised by the Registrar-General in a memorandum with reference to the existing facilities for marriage between British subjects in the self-governing Colonies or Possessions and British subjects dwelling in England.

The Committee concurring in the said report advise that a copy of the same, if approved, be forwarded to the Secretary of State of Canada for transmission to the Colonial Secretary.

A. CAMPBELL REDDIE,  
Deputy Clerk, Executive Council.

The undersigned has the honour to report that the Imperial Registrar-General has addressed to the Colonial Office a letter and memorandum dealing with the existing facilities for marriage between British subjects dwelling in the self-governing Colonies and Possessions and British subjects dwelling in England, and making suggestions for the improvement of these facilities. The Colonial Secretary has transmitted to His Excellency the Governor-General a copy of said letter and memorandum and a draft of a Bill indicating the lines on which it is suggested that legis-

lation should be proceeded with to provide for said facilities, in order that the views of the Provincial Governments in Canada should be obtained on the questions raised by the Registrar-General.

The undersigned is quite in accord with the views of the Registrar-General, and approves of the provisions of the draft Bill, and recommends that the views of the Registrar-General in this matter and the provisions of said draft Bill should receive the approval of the Lieutenant-Governor in Council.

Dated this 16th day of June, A.D., 1908.

W. J. BOWSER,  
Attorney-General.

To His Honour  
the Administrator in Council.

37961

No. 126.

## COLONIAL OFFICE to THE REGISTRAR-GENERAL.

[Answered by No. 127.]

SIR,

Downing Street, 4 November, 1908.

I AM directed by the Earl of Crewe to transmit to you, with reference to the letter from this office of the 20th of May,\* the accompanying copy of a despatch from the Deputy Governor-General of Canada,† reporting the views of the Governments of the Provinces on the subject of the proposed legislation to increase the facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom.

2. I am also to enclose copy of a memorandum which has been prepared in this Department, summarising the replies which have been received from the various self-governing dominions as to the proposed legislation.

3. In view of the lack of unanimity in favour of the proposed Bill, Lord Crewe considers that it would not be possible to proceed with the legislation as originally proposed, and that any Act which could be introduced into Parliament must be confined to permitting the acceptance of certificates issued in the Colonies in the United Kingdom, and the issue of certificates in the United Kingdom for use in the Colonies, in such cases in which provision may be made by the Colonial Legislature for the issue or acceptance, respectively, of such certificates.

4. Lord Crewe would be glad to know whether you consider it desirable to proceed with legislation in the modified sense suggested above, or whether it would be preferable, as it is not possible to carry out the proposal in its entirety, to lay aside for the present the proposed legislation.

I am, &amp;c.,

C. P. LUCAS.

Enclosure in No. 126.

## MEMORANDUM.

The Registrar-General prepared in 1907 a Bill making provision for further facilities for marriage between British subjects dwelling in the self-governing Dominions and British subjects dwelling in England.

The suggestions of the Registrar-General were embodied in a Bill which was transmitted on the 20th of June, 1907, to all the self-governing Dominions, including the Commonwealth States, as they alone are concerned with marriage facilities.

The Bill provided in effect, *firstly*, that when arrangements had been made in a Colony for the giving of notice of marriage and the issue of a certificate by a competent officer, stating that all legal requirements had been complied with in accordance with the laws and requirements of the Colony, then that certificate can be accepted in England as an authority for the marriage, in the same manner as if it had been a certificate issued by the Superintending Registrar of another district in England.

\* L.F. transmitting copy of No. 279 in Dominions No. 5.

† No. 125.



*Secondly*, the Bill provided that when the necessary arrangements had been made in a British Colony or Possession by statute or otherwise, it should be lawful in the case of an intended marriage in a British Colony between a British subject in such Colony and a British subject dwelling in England for the party dwelling in England to give notice of marriage in England, whereupon a certificate could be issued, and such certificate should be accepted in the Colony or Possession in which the marriage was to take place as authority for the marriage in respect of the party dwelling in England.

It will be seen that two quite distinct matters were dealt with in the Bill; the one was to provide for a convenient mode of giving notice in the case of a Colonial going to England with the intention of being married immediately on arrival. This is a piece of domestic legislation, but would be useless unless the Colonies chose to make arrangements by which certificates could be issued locally in the case of a person who was not going to be married in the Colony. This part of the legislation could, if it were thought worth while, well be passed without consulting the Colonies.

The other part of the legislation is to provide that notice given in England shall be sufficient in the Colonies. Exception has been taken by the Commonwealth of Australia, as will be seen, to this legislation as being unconstitutional, and as a matter of fact the section is not well worded, inasmuch as it would have been sufficient for the purpose of the Bill, and it would have been in keeping with the constitutional relations of the self-governing Dominions and His Majesty's Government, merely to enact that when the necessary arrangements had been made in a British Possession to accept such certificates, then the English Registrars should be entitled and bound to issue such certificates. That would have had the same legal effect and would have obviated legislating for the self-governing Dominions.

The replies from the Dominion of Canada were as follows (the Provincial Governments there control marriage facilities):—

The Government of Ontario considered that there was no necessity for the legislation, the reason being that under Section 7 of the Act regulating marriage, a certificate can be issued forthwith for the marriage of persons who have just arrived in the Province.

The Government of Quebec stated that no legislation was required, by that expression apparently referring to Provincial legislation, and it would appear that they have no objection to, if they have no desire for, the proposed legislation.

The Government of Nova Scotia pointed out that the second provision was not necessary, as notice of marriage was not required in Nova Scotia, and the first was impracticable as there was no officer who could issue banns. The Government, therefore, does not favour the Bill which, as far as Nova Scotia is concerned, will clearly be inoperative.

The Government of New Brunswick considered that the legislation was not necessary as regards the Province. He stated that no interest in the Province would be appreciably affected by the passage of the Bill.

The Government of Manitoba were not in favour of any alteration in the law of Manitoba and, presumably, of the passing of the Bill.

The Government of Saskatchewan pointed out that there need be no delay in effecting a marriage immediately on arrival from England, and that, therefore, Section 2 of the Bill was unnecessary.

The Government of Alberta proposed to pass legislation at the next Session of the Legislature to provide, as far as the Province is concerned, the improved facilities mentioned in the draft Bill, and, therefore, presumably, approve the draft Bill.

The Government of British Columbia quite approved of the draft Bill.

The Government of Prince Edward Island also approved the Bill.

The reply of the Government of Newfoundland has not yet been received.

The Government of New South Wales approved the terms of the draft Bill, but they pointed out that in New South Wales at present no notice of any kind and no residential qualifications were required before the celebration of a marriage; but they had under contemplation the passing of a law requiring the giving of notice before marriage.

The Government of Victoria were of opinion that no further facilities were required, as a marriage could be performed in Victoria by a clergyman upon the day of arrival, but they saw no objection to the first provision of the Bill.

The Government of Queensland considered that little use would be made of the Bill if passed.

The Government of South Australia considered that no necessity existed for legislation increasing the facilities for marriages to be celebrated in the State, as sufficient facilities for such marriages already existed. Further, the Registrar-General of the State considered that no useful purpose would be served by the issue of certificates for the celebration of marriages in the United Kingdom, as such certificates, owing to local conditions, would be of little weight.

The Government of Western Australia considered that no further facilities were necessary for marriages in the State, but they saw no objection to the first clause of the Bill.

The Government of Tasmania saw no reason for the passing of the Bill as regards Tasmania as no residential qualification was necessary.

The Government of the Commonwealth objected on general constitutional grounds to the proposed legislation, as has been mentioned above, on the ground that it was very undesirable for the Parliament of Great Britain to legislate with reference to marriages in Australia, and they suggested that the second clause should be omitted or so modified as not to apply to the Commonwealth. They pointed out that any further facilities that were necessary could easily be furnished by local legislation, and they added that they did not consider that any additional facilities for marriages were at present necessary in Australia.

The Government of New Zealand stated that marriages could take place directly on the arrival of persons from abroad in the Dominion, and that, so far, no trouble had arisen and there was no demand for legislation, but they did not take any exception to legislation.

The Government of the Cape of Good Hope pointed out that the law already empowered ministers of religion to accept certificates of the publication of banns outside the Colony, and they apparently did not consider the Bill necessary.

The Government of Natal were of opinion that the present facilities in the Colony were adequate and that there was no necessity for the proposed legislation.

The Government of the Transvaal had no objections to offer to the proposed legislation.

The Government of the Orange River Colony approved of the proposed legislation.

The net result is that the Provinces in Canada are divided in opinion; that the Commonwealth of Australia objects on constitutional grounds; that the States as a whole are not particularly anxious for the Bill; that New Zealand is not anxious for it; that the Cape of Good Hope and Natal clearly do not wish it; and that the Transvaal and the Orange River Colony are quite willing that the legislation should be passed.

It is clear that it is quite impossible to proceed with the legislation as it stands, as nothing but practical unanimity on the part of the self-governing Dominions would justify any action in this matter. It is quite another question whether it is worth while, as a mere United Kingdom matter, to pass a short Act, providing that in the United Kingdom certificates, if issued in the Colonies, can be accepted, and to authorise Registrars to issue certificates here if the Colonies wish to have them; and such an Act might be made dependent for its operation in either event on the issue of Orders in Council in respect of the particular Colonies whose legislation may permit the grant or acceptance of such certificates. That would involve no constitutional difficulties whatever.

But, in the absence of any evidence that there is any practical difficulty with regard to such marriages, and as the facts set forth above tend to disprove this, it hardly seems worth while troubling Parliament with an Act the operation of which would be extremely restricted and which would have no useful effect in securing the validity of marriages. It is not proposed by the Bill (and it would certainly not be passed by Parliament if it were proposed, or accepted by the Colonies) to render it essential for any person going from England to obtain a certificate here or *vice versa*, and unless it is made essential no useful purpose would be served by the Bill as regards the validity of marriages.

A. B. K.

27 October, 1908.



44587

No. 127.

THE REGISTRAR-GENERAL to COLONIAL OFFICE.

(Received 5 December, 1908.)

[Answered by No. 128.]

General Register Office, Somerset House, London, W.C.,

4 December, 1908.

SIR,

WITH reference to Sir Charles Lucas's letter of the 4th November, No. 37961/1908,\* I beg to state, for the information of the Earl of Crewe, that, having given due consideration to the replies from the various self-governing Dominions as to the proposed legislation to increase facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom, I am strongly of opinion that legislation on the lines indicated in paragraph 3 of Sir Charles Lucas's letter, should be proceeded with at the earliest possible date.

In thus advising the Secretary of State I am mainly influenced by two considerations: first, there is abundant evidence that there are practical difficulties in respect of such marriages; second, such a Bill, if passed, would exercise a powerful influence in the direction of the improvement of the Marriage Law in many parts of our over-sea dominions.

It is not, I apprehend, necessary for me to trouble the Earl of Crewe with any detailed analysis or criticism of the replies received, though these show in many instances that the draft Bill has received very hasty and superficial consideration. But I must point out that I fail entirely to appreciate the objection of the Commonwealth Government on the ground that it legislates for marriages in Australia. Clause 2 of the draft Bill, read in its entirety, can give no countenance to such a view, for the opening phrase—"When the necessary arrangements have been made in a British Colony or Possession, by Statute or otherwise"—governs the entire clause, and it is perfectly obvious that the "necessary arrangements" must include a provision for the acceptance of Certificate of Notice here as the authority for the person concerned. But these "necessary arrangements" in a self-governing Dominion must be made not by the proposed Bill, but by the Legislature of the Dominion concerned.

Indeed, I cannot quite see where the draft Bill goes materially beyond the limits defined in the afore-quoted paragraph 3, and the penultimate paragraph of the Colonial Office Memorandum, except in respect of the issue of Orders in Council in respect of the particular Colonies who agree to reciprocate.

If, therefore, the Secretary of State for the Colonies on full consideration, approves of the preparation of a draft Bill on the above lines, I shall be glad to consider its provisions, and to give every assistance in my power to render it as workable a measure as possible, and should the Secretary of State deem it desirable, I should be pleased to confer with his Department, and to discuss the various points at issue.

I am, &amp;c.,

WM. C. DUNBAR,

Registrar-General.

44587

No. 128.

COLONIAL OFFICE to THE REGISTRAR-GENERAL.

SIR,

Downing Street, 15 February, 1909.

I AM directed by the Earl of Crewe to acknowledge the receipt of your letter of the 4th of December last,† on the subject of the proposed legislation to increase the facilities for marriage between British subjects dwelling in the Colonies and British subjects resident in the United Kingdom.

2. In reply I am to point out that Section 2 of the proposed Bill does purport to legislate for the Colonies, inasmuch as although it provides that the section shall only take effect when the necessary arrangements have been made in each Colony, nevertheless, it provides also that after that has taken place, a certificate issued by

\* No. 126.

† No. 127.

a Registrar as provided in the Act, shall be accepted in the Colonies as authority for the marriage in respect of the party dwelling in England. Moreover, Section 4 of the Bill appears to make acts done in a Colony criminal offences.

3. The Secretary of State, however, would be glad to consider a Bill drafted in the manner suggested in paragraph 3 of the letter from this Office of the 4th of November last,\* if you would be so good as to draft a Bill on these lines. He would also be glad at the same time to receive a Memorandum explaining in somewhat greater detail than has hitherto been done, the advantages, both from a practical and sentimental point of view, to be derived from the passing of such a Bill.

I am, &amp;c.,

C. P. LUCAS.

## XVI.

## Suez Canal Dues.

31851

No. 129.

AUSTRALIA.

THE GOVERNOR-GENERAL to THE SECRETARY OF STATE.

(Received 31 August, 1908.)

[Answered September 4, 1908, No. 310 : not printed.]

(No. 197.)

Governor-General, Adelaide, South Australia,

22 July, 1908.

MY LORD,

REFERRING to my despatch, No. 97, dated 14th April, 1908,† on the subject of the charges on shipping using the Suez Canal, I now have the honour to inform your Lordship that the Prime Minister has invited my attention to the recently published Annual Report of the Suez Canal Company for 1907, which appears to my Ministers to afford further evidence that the time has arrived when the British representatives on the Council might be instructed to urge a further reduction in the rates now charged. In a memorandum to me upon the subject, the Prime Minister expresses the hope "that the Imperial authorities will be able to see their way to cause action in that direction to be taken at an early date."

I have, &amp;c.,

NORTHCOTE,

Governor-General.

37827

No. 130.

THE BRITISH DIRECTORS OF THE SUEZ CANAL COMPANY to SIR E. GREY.

(No. 27. Commercial.)

SIR,

Paris, October 5, 1908.

WE have the honour to acknowledge the receipt of your despatch, No. 12, Commercial, of the 11th July last, covering the letter of the Board of Trade of the 17th June, which encloses correspondence‡ between the Governor-General of the Commonwealth of Australia and the Colonial Office on the subject of the transit dues charged by the Suez Canal Company.

After very careful consideration of the representations that Lord Northcote makes on behalf of his Ministers, and fully appreciating the importance attached to the question by the Chamber of Commerce of Australia, we have come to the conclusion that we cannot with advantage add anything on the merits of the case to the replies given to questions put to His Majesty's Ministers in the House of Commons in the course of the recent Session of Parliament.

We would, however, refer you to our despatch, No. 21, Commercial, of the 31st August, 1906,§ which contains a full explanation of the basis upon which the present charges rest.

\* No. 126.

† 17570 : not printed.

‡ 17570 and 17570 : not printed.

§ No. 2 in [Cd. 3345] March, 1907.



It would, in our opinion, be out of place for us to reply to the criticisms of the Australian Chamber of Commerce upon the composition of the London Committee of the Suez Canal Board, but we may remind you that, out of the seven commercial directors who compose that Committee, only two can at the present time be described as exclusively representing the "mail line interests"; and that both of them are prominently connected with companies running services of steamers to Australia, and are presumably, therefore, cognisant of the commercial conditions and requirements of the Commonwealth.

We may further observe that to many of the clients of the Canal Company the question of the dimensions of the canal is quite as important as that of the charges imposed upon their ships. In this respect the interests of the "mail liners" and other owners of very large vessels are not altogether identical with those of the companies owning the smaller vessels, or of the so-called "tramps." For the former class of owners the steadily increasing draught and tonnage of their ships make the widening and deepening of the canal a question so vital as to take precedence of every other—even of that of the rate of the transit dues. To the owners of the smaller types of passenger steamers and cargo vessels this question does not present itself in the same light. The actual width and depth of the canal is sufficient for their present or even their future requirements. They are consequently free to exert their influence towards the reduction of the charges, in their own interests; and this they therefore claim should be the first object of the Council of the Canal Company.

The Government of Australia is, however, aware, through your statements in the House of Commons, that this is not the view of the members of the Council of the Canal Company. They have, on the contrary, formed the opinion, on a careful estimate of the probable future of the shipbuilding industry, that their first duty is to provide adequate facilities for possible further developments of the canal traffic; and until such facilities have been provided we do not anticipate that the shareholders of the Company will be willing to assent to any further diminution of their receipts by a reduction of the dues upon the demand of a portion only of the clients of the Canal.

Since the receipt of your above-mentioned despatch, we have had an opportunity of perusing a copy of the Colonial Office letter of the 5th September,\* with the despatch of the 22nd July† from the Governor-General of the Commonwealth. The Annual Report for 1907, which was submitted to the shareholders at their last General Meeting, and upon which Lord Northcote's Ministers found their renewed claim for a reduced scale of charge, contains a full statement of the policy of increased capital expenditure to which we have above referred; and we may remind you that that report was, after an exhaustive explanation by the President of the Company, unanimously adopted by the shareholders.

We have, &c.,

H. AUSTIN LEE.  
H. T. ANSTRUTHER.  
W. E. GARSTIN.

41931

No. 131.

AUSTRALIA.

THE SECRETARY OF STATE to THE GOVERNOR-GENERAL.

[Copy to Foreign Office and Board of Trade, 27 November, 1908. L.F.]

(No. 396.)

MY LORD,

Downing Street, 20 November, 1908.

WITH reference to my despatch, No. 310, of the 4th of September,\* I have the honour to transmit to Your Excellency, to be laid before your Ministers, the accompanying copy of a letter† from the British Directors of the Suez Canal Company, on the subject of the possibility of a reduction in the present dues charged by the Suez Canal Company.

\* 31851 : not printed.

† No. 129.

‡ No. 130.

2. It will be seen that the Directors of the Company advise that it is not possible to effect any reduction in the dues at present, when steps are being taken to secure the widening and deepening of the Canal.

3. His Majesty's Government have given their most careful consideration to the question, but they much regret that they do not see their way at present to obtain a reconsideration of the decision communicated to your Government in my predecessor's despatch, No. 203, of the 31st of October, 1906.\*

I have, &amp;c.,

CREWE.

41931

No. 132.

NEW ZEALAND.

THE SECRETARY OF STATE to THE GOVERNOR.

(No. 194.)

MY LORD,

Downing Street, 20 November, 1908.

I HAVE the honour to transmit to you, for the information of your Ministers, the accompanying copy of correspondence† with the Government of the Commonwealth of Australia, on the subject of the proposed reduction of the dues levied on vessels passing through the Suez Canal.

I have, &amp;c.,

CREWE.

## SCHEDULE OF ENCLOSURES.

1. [Cd. 3345.]
2. Governor-General, No. 97, 14th April.
3. Governor-General, No. 197, 22nd July.
4. Secretary of State, No. 310, 4th September.
5. Secretary of State, 20th November.

\* No. 8 in [Cd. 3345] March 1907.

† [Cd. 3345] : 17570 : not printed ; No. 129 : 31851 : not printed ; No. 131.